Supreme Court, U. S.
FILED
AUG 12 1974
MICHAEL RODAK, JR., CLERK

APPENDIX

VOLUME II

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1973

No. 73-1462

MARK WHITE, ET AL.,
Appellants

V.

DIANA REGESTER, ET AL.,,
Appellees

MARK WHITE, ET AL.,
Appellants

V.

FRANK A. ESCALANTE, ET AL.,
Appellees

MARK WHITE, ET AL.,
Appellants

V.

JAMES GASKIN, ET AL.,
Appellees

MARK WHITE, JR., ET AL.,
Appellants

V.

WANDA L. CHAPMAN, ET AL.,
Appellees

Appeal from the United States District Court
for the Western District of Texas

FILED JANUARY 30, 1974

PROBABLE JURISDICTION NOTED MAY 28, 1974

December 4, 1973
1:30 PM

MR. YORK: Your Honor, with the consent of counsel, we would like to put two witnesses from El Paso on out of order, and hopefully they will not be very long.

JUDGE GOLDBERG: It's perfectly all right.

DAVID MORALES,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. York:

Q. Would you state your full name for the record, please sir?

A. David J. Morales.

Q. Where do you live, Mr. Morales?

A. 3308 Douglas Street.

Q. What county and what town?

A. El Paso, El Paso County, state of Texas.

Q. Okay. How long have you lived in the city of El Paso, Mr. Morales?

A. All of my life.

Q. What age man are you?

A. 23.

Q. 23?

A. Yes.

Q. All right. What business or profession are you in?

A. I am the director of the El Paso Educational Research Project.

Q. In a general way, what kind of work is that?

A. We do research on the Public School System for the purpose of disseminating information to the parents so that we can get them more involved.

Q. How long have you had that job?

A. I developed the project myself, and I've been working with the project for about three years.

Q. Does that project focus particularly on the problems of the Mexican-American students in the schools or is it broader than that or what?

A. Our main purpose is to organize the Chicano parents. So we do not investigate problems just particularly regarding Chicanos, but the overall situation in the Public School System.

Q. All right. What education have you had?

A. I have had 30 hours of college and I am a graduate from high school.

Q. You graduated from an El Paso High School and you have had 30 hours of college?

A. Yes.

Q. All right. Other than your job, have you been politically active in El Paso?

A. Well, I've been involved in areas of voter registration and political campaigns.

Q. What campaigns specifically in recent years, I guess all of your years would be fairly recent, but what specific campaigns have you worked in?

A. I have worked in the State Representative races where Moreno, Muniz and Santiesteban have run for office, together with Ramos. I've been involved in city elections. This would be in '68 and '70 and '72,city elections. And I've been involved in School Board elections.

Q. All right. So you've been pretty politically active in El Paso since you've been old enough to know anything about politics?

A. Yes, I have.

Q. All right. Let me ask you a few things about the degree to which Chicanos participate in politics in El Paso. First of all, taking the office holders, looking at your City Council and your Mayor, have Chicanos been active in those races?

A. We have been active in running and we've been successful in taking some of the offices.

Q. All right. Have you recently had or do you now have a Mayor who is a Chicano?

A. No, we don't. The last Mayor that we had in the City was in 1960 I believe.

Q. And what was his name?

A. Raymond Telles.

Q. And was he the one that -- had he formerly been County Clerk?

A. Yes, I believe so.

Q. And County Clerk is a county wide election?

A. Right.

Q. All right. Do you know what Mr. Telles has done since becoming Mayor or since leaving that job?

A. He took on some Presidential positions and he also was unsuccessful in running for the Congressional position, the 16th Congressional District in El Paso.

Q. All right. Had he been the Ambassador to Costa Rica?

A. Yes, he was.

Q. All right. Are there City Councilmen who either now or have in the recent past been Chicanos?

A. Yes, we have two Spanish names on the Council right now.

Q. What sized Council do you have?

A. We have four City Councilmen and one Mayor.

Q. All right. Just so the record is clear about it, are your Councilmen elected at large?

A. At large.

Q. At large? So that each Councilman would run city wide?

A. Right.

Q. All right. And you have two presently out of your four who have Spanish surnames?

A. Right.

Q. All right. What about the County Courthouse? Do you have Judges or County Commissioners or other elective offices whether county wide or not that are held by Chicanos?

A. I don't recollect there being any Chicanos as County Judges, but we do have two Chicanos as County Commissioners.

Q. All right, What is the present makeup of your delegation here in Austin? You have four Representatives and one Senator. How is that broken down?

A. There are all Anglo except the State Senator.

Q. All right. Now, this last session was the 63rd session of the Legislature. How were you represented the session before that, the 62nd Legislature?

A. We felt that we were represented fairly well if you could say by Paul Moreno, and the people that were the Chicanos that were --

A. Of your four man delegation that was up here two years ago, how many were Chicanos?

A. If I'm not mistaken, Santiesteban and Moreno were the only ones.

Q. In other words, two of the Representatives were Spanish surnames and the other two were Anglo?

A. Right.

Q. And then this last time, Senator Santiesteban ran for the Senate successfully.

A. Right.

Q. Who ran against him?

A. Well, the one that got in the run-off with Santiesteban was Paul Moreno.

Q. So that both of the fellows who had been Representatives in this 62nd Legislature chose to contest each other for the Senatorial seat and Senator Santiesteban won?

A. Right.

Q. All right. You have said that you were and have been active in the registration or the drive to register voters in El Paso County?

A. Right.

Q. Do you have a view that you could express to the Court as to whether or not in El Paso, El Paso County there is discrimination against Mexican-Americans or to put it more precisely, discrimination against Mexican-Americans of a sort which prohibits them from an active participation in the political process?

A. There have been some acts of discrimination in the past, in the near past which have kept Chicanos from getting registered. But at the present moment, I feel that the community has been able to overcome those acts of discrimination, which are not acts of prohibiting the Chicano from taking an active role. It's just a matter of taking advantage of their past political performance. But at this time, I feel that the community does have the activity within it for it not to be prohibited from taking an active role.

Q. All right. Considering that El Paso presently has a multi-member district situation where four Representatives are elected, each of them running county wide, and considering that the population in El Paso County is something around--people seem to vary about the figures -- but something around 60 percent Mexican-Americans, do you have an opinion that you could express to the Court about whether the continuation of a multi-member situation in El Paso County would be better calculated to insure the best representation of the Mexican-American in the community or whether going to a single member district system would be better calculated to see that the Mexican-Americans get the fullest representative they could have?

A. I believe that looking at the past performance of Chicanos in other words, and looking at the past the four years, I feel that under the multi-member

district the Chicano community had the opportunity to play an active role in politics in El Paso. I believe that the race between Santiesteban and Moreno as being the first indication that for the first time in the El Paso community, the Chicano community had the opportunity to choose between two Chicanos rather than in the past having always to have the Chicano as the underdog vying against the conservative Anglo candidate.

Q. Okay. Realizing that you are speaking only for El Paso and that you are not expressing any view about what ought to be done in any other county in this State besides El Paso, would you personally prefer from your vantage point to see multi-districts multi-member districts remain or would you personally prefer to see single member districts come in?

A. In El Paso County I would prefer to have multi-member districts remain.

Q. All right.

A. Rather than a single member.

Q. What effect do you think that a single member district situation or scheme would have on--can you see any way out that might actually disenfranchise in your view some of the Mexican-American population?

A. I feel that it would disenfranchise thousands of Chicano voters because of the housing authorities effect

on the displacement of many Chicanos from the depressed areas. There would be a lot that would be disenfranchised, going on the premise that single member would in effect disenfranchise or give the opportunity to the Chicano community to participate, I feel that that would not be the case. Under the single member districts, it would disenfranchise many Chicanos.

MR. YORK: Mr. Morales, thank you very much. That's all we have, Your Honor.

CROSS EXAMINATION,

By Mr. Korbel:

Q. George Korbel, representing the Plaintiffs Moreno et al. I want to get this straight so that there is no confusion. You are not saying that there hasn't been acts of discrimination against Mexican-Americans in El Paso County as well as state wide, are you?

A. What I'm saying is that there has been acts of discrimination which have--and it's effect kept the Chicanos from participating in the political institutions in El Paso.

Q. And do you suppose that the effect of these acts of discrimination -- do you still find that in the political participation, let's say of El Paso County?

A. You will find some remnants of it, but not to

the extent that it keeps the Chicanos from participating in the political process.

Q. Now, you said approximately what percentage of the Mexican-Americans are registered voters?

A. I would estimate about 45 percent.

Q. If I told you that the immediate past Chairman of the Democratic Party had made a head county of the number of Mexican-Americans that were registered to vote and found it to be 38 percent, would you deny that?

A. No, I wouldn't deny that.

Q. You haven't made a head count in other words? You are just estimating, is that right?

A. No.

Q. Now, what about on turn outs? Do you suppose on election day Mexican-Americans turn out in the same number that Anglos turn out?

A. I guess in most elections you will find more Anglos turning out than Chicanos.

Q. And if the immediate past Chairman of the Democratic Party in El Paso County said that there was an overwhelming number of Anglos that turn out in excess of Mexican-Americans, would you deny that?

A. It depends upon what he mans by "overwhelming".

MR. YORK: Let me interrupt counsel for a moment and ask him to give us the page reference if he's going to read from the deposition.

MR. KORBEL: I'm not reading from the deposition.

JUDGE WOOD: He answered the question by saying "what do you mean by overhwelming." And that's his answer.

MR. KORBEL: I have to apologize, Your Honor. The State did not waive the signatures on these depositions and so I only got them this morning. I'll leave that for now.

MR. YORK: Your Honor, it's a very minor point, but Mr. Korbel was the one that would not waive the signing, if anybody cares about that.

MR. KORBEL: Oh no, that's not correct, Your Honor.

JUDGE GOLDBERG: Well now, we're not going to get into the signatory problem. We've got enough problems.

Q. (By Mr. Korbel:) Now, you stated that there has been some effort to diversify the housing, the public housing in El Paso County, is that right?

A. Right.

Q. In the past, all of the public housing has been placed in the minority areas, is that right?

A. Right.

Q. Isn't it true that when this public housing was disbursed, there was a great outcry among the Anglo community. They didn't want the public housing in their area, isn't that true?

A. I haven't heard of an outcry from the Anglo community. They were not pleased with the Federal Housing Projects and where they were placed. They have been placed in locations where they are isolated from any neighborhood contact from the Anglo community.

Q. So that even though they are placed in Anglo areas, they still isolate the housing projects, is that right?

A. Right.

Q. Now, do you know how many Mexican-Americans have been elected to the State Legislature from El Paso County since reconstruction?

A. I believe the number would be around five.

Q. Can you name the number that are five? Can you name the five?

A. Mendoza was elected, Moreno.

Q. In '58 he was the first one, is that right?

A. I believe so. Moreno and Santiesteban and I think Muniz. That was it.

Q. That was four?

A. Yes.

Q. And there are none in the delegation now, is that right?

A. Right.

MR. KORBEL: I think that's all I've got, Your Honor.

CROSS EXAMINATION

By Mr. George:

Q. I'm Jim George representing the Republican Plaintiffs in this case, Mr. Morales. Quite briefly, let's go over a few things. You mentioned a Mayor in El Paso who was elected you said in 1960. Was he appointed to the position of County Clerk or did he run?

A. I'm not certain whether he was an appointment.

Q. Do you know what area of the city he lived in?

A. No, I'm not sure.

Q. You don't know? You said that there are currently two Mexican-American Alderman or Councilman in the El Paso City Government, is that correct?

A. Right.

Q. Can you tell us briefly are there slates of candidates running in the City Council elections?

A. They run in tickets.

Q. In tickets?

A. We have some candidates that run independent.

Q. Okay. The two Mexican-American Alderman, were they on the ticket or slate?

A. They were on a slate with the present Mayor.

Q. What is the present Mayor's occupation?

A. He owns the Circle K Food chain.

Q. Is that a major food chain?

A. Yes.

Q. What is the occupation of the two Mexican-American Alderman?

A. Villa Saes, I think he is a home developer and Morales is an insurance agent.

Q. Where do they live in El Paso?

A. I'm not sure where they live.

Q. Can you describe El Paso's Mexican-American community? In your direct testimony I believe in response to Mr. Korbel you talked about Mexican-Americans through the housing projects being spread throughout the community. Can I infer from that that there are concentrated areas of Mexican-Americans in El Paso?

A. I would say the vast majority of the Chicanos are segregated.

Q. Is it in an area known as the South side?

A. There is an area that's called the South side. I don't know how long it's going to last.

Q. Is it divided by the Freeway basically in El Paso from the rest of the community?

A. Well, I couldn't state that the Freeway divides it. Are you talking about just the South side?

Q. First I'll ask you where the Mexican-Americans, the predominately Mexican-American areas are. I thought you said that they were on the South side.

A. No. I didn't say that the vast majority of the Chicanos are on the South side. The South side represents--it's a small part of the overall Chicano community in El Paso. But the southern part of El Paso, the southern delta of El Paso holds I believe the majority of the Chicanos. But you can't say that the freeway divides the Chicano community from the predominately Anglo community because in the central area north of the freeway you do have Chicanos.

Q. Some Chicanos on the other side of Interstate 107.

A. Yes.

Q. Okay. Finally, two more series of questions. One is the Senate race that you referred to in which Senator Santiesteban won, who were the candidates in that race in the Democratic Primary?

A. In the Democratic Primary?

Q. Yes.

A. I think they ran against two Anglo candidates. But the ones that got into the run-off were Moreno and Santiesteban.

Q. Was there an incumbent State Legislator, an Anglo incumbent State Legislator candidate?

A. No, I think the incumbent, Joe Christie, did not

choose to run.

Q. Excuse me, I didn't mean incumbent Senator, I meant incumbent House Member.

A. Paul Moreno was the incumbent House Member.

Q. Anglo.

A. I think -- it was Scoggins and Caster I believe were the incumbents.

Q. Did either one of those gentlemen run for the Senate?

A. No, they didn't.

Q. Is Mr. Caster still in the Legislative delegation?

A. Yes.

Q. So he must have not run?

A. No, he did not run.

Q. So you really don't know who the Anglo candidates were, do you?

A. No, because our concern was that we felt Santiesteban was the strong horse or the strongest Democratic candidate running because he had the endorsement either on an official basis or an unofficial basis of Christie.

Q. Of Senator Christie? Where does Senator Santiesteban live in El Paso County?

A. Well, from the addresses that I have, he lives I think in the Eastwood Area, if I'm not mistaken.

Q. Can you characterize that? Is that a predominately Mexican-American area?

A. No., it's not.

Q. I take it you are some observer or have in your career in politics observed voting patterns?

A. Yes.

Q. In that first primary in the Senate race, the one I assume you are the most familiar with, did the Anglo areas of El Paso divide their votes among the candidates evenly or did the two Anglo candidates carry the Anglo areas heavily?

A. No, I don't believe that the Anglo candidates carried their area.

Q. In the first primary?

A. In the first primary.

Q. Okay. Has there been any response to your knowledge by the Anglo community to the relocation or the location of public housing outside of the south side in El Paso?

A. Well, there hasn't been any public disagreement with or anybody opposing it.

Q. There has been no opposition at all?

A. It is really a matter that the selection sites aren't made the year before. They are planned out by the housing authority maybe four or five years before they are constructed.

Q. And there has been no Anglo, none of the Anglo community has reacted to the location of public housing in previously all Anglo areas?

A. Well, I would say from what I've seen in the newspaper that there hasn't been.

MR. GEORGE: That's all I have.

JUDGE GOLDBERG: We are very happy to have your presence, but what standing does the Republican party have in this case?

MR. GEORGE: First of all, Your Honor, the intervenors I represent in these counties happen to be Mexican-Americans as well as Republicans. Second, this Court decided that in the Graves opinion, indicated that the decision upon the independent political, the representation of political minorities such as the Republicans need not be faced by the Court if there was discrimination against ethnic or racial minorities. We think that in this case the evidence shows such discrimination and we don't need to present evidence on our particular standing.

JUDGE GOLDBERG: I wanted to get it for the record and we appreciate your presence.

MR. GEORGE: Thank you.

MR. KORBEL: Your Honor, I have a couple of more questions.

JUDGE GOLDBERG: Have at it.

MR. KORBEL: Thank you, Your Honor.

RECROSS EXAMINATION,

By Mr. Korbel:

Q. Isn't it true that in the past there have been racial appeals or ethnic appeals to the Anglo voters in campaigns in El Paso County?

A. Racial appeals to the Anglo community?

Q. Yes.

A. There have been racial slurs in campaigns but not to the extent that they affect this --

Q. And the last one --

JUDGE WOOD: Let him finish, Counselor.

A. I feel that in looking at discrimination and racial attitudes that are brought out in campaigns that the Chicano he is the victim of racial slurs but it is not to the extent that they really keep them from electing Chicano officials to positions in the city.

Q. What about the Mayor's campaign, the most recent Mayor's campaign?

A. I think the recent Mayor's campaign is an indication of how the Chicano community is participating in political power, despite the fact that racial slurs did exist. The opposition is really contradictory because the mayor that got elected is a Republican and he did run a racially biased campaign.

Q. And he ran against a Mexican-American, didn't he?

A. He ran against a Mexican-American.

Q. And what was the vote total in that campaign?

A. It was about 30,000 to 20,000.

Q. I see. So, he was able to run a radically oriented campaign and still get elected in El Paso County, is that correct?

A. Yes, sir.

Q. The Mexican-American community reacted to that though you say?

A. It reacted to it, but we are talking about what has been in the past and it has taken the minority some time to --

A. That was last year?

A. Last year, but it has taken them some time to become conscious of what's happening.

Q. Let me understand your position here. You are saying, if I'm not mistaken, that you would like to keep multi-member districts because you think that you can get all of the Mexican-Americans together and elect the entire slate, isn't that correct?

A. My decision to support the small town member districts and oppose single member districts is based on the premise that in dividing up the district or dividing up the county, we feel that it will disenfranchise more Chicanos than it will bring into the political process.

Q. You don't understand my question. It is the thing we discussed this noon and we discussed it last week. The reason that you are opposing multi-member districts is because you think you can elect everyone, isn't that true? If the Chicanos get together, you think you can elect everyone.

A. Now you are making what I would call very biased and prejudicial statements in the regard that I am capable of organizing the Chicano community. I believe the Chicano community should have the right to participate to their degree. And if they are capable of taking office, and perhaps in the past the vast majority of the State Representatives have been Chicano, then I think that's the prerogative of the Chicano community. But I feel that their ability to obtain representation should be left open.

MR. KORBEL: I have nothing further, Your Honor.

JUDGE GOLDBERG: Mr. York?

MR, YORK: We have nothing further, Your Honor.

EXAMINATION,

By Judge Wood:

Q. Just a few questions. What is the population percentage of Spanish speaking surnamed people in El Paso County, that is, Mexican-Americans, as compared with Anglos and blacks?

A. From the census I would go at 57 percent for Chicanos, three percent for the blacks and the remainder would be Anglos. Not baring the number of orientals or native Americans in this area.

Q. In other words, 57 would be Spanish surnamed Mexican-Americans, three percent black and the rest would be anglos and the others.

A. Yes.

Q. Orientals and so forth. That would be the rest?

A. Yes.

JUDGE WOOD: All right.

EXAMINATION,

By Judge Justice:

Q. You say that there was a racially oriented campaign on the part of the Anglo candidate for Mayor in this past election. What particular devices were employed in that connection?

A. It was a matter of them characterizing him as an unamerican because of his --

Q. They characterized him as what?

A. As an unamerican. He did not respect the United States because of his involvement with groups like what I would consider Chicano organizations. These would be the Chicano civil organizations, and for his participation in some group activity for

instance bringing in in a conference that we held at a south side school. We tried to bring as many Chicanos together as possible with every diversified political background from your most conservative to your most liberal so that there could be some system of communication, or understanding between them. So that there could be a consolidation of resources.

This was looked upon by the establishment as a conspiracy against them. This is not in a direct conversation that I have held with people that I would consider the wealthy and those that have the most political influence in El Paso, but it was a matter that was brought up in the campaign.

Q. Well, what particular organizations were characterized as unamerican?

A. Well, what made it so strange, we had some LULAC oriented organizations like the MAYO organization at the conference. We had the Chicano Political Office holders, who some people would consider conservative and to others they would be liberal.

JUDGE JUSTICE: Thank you.

JUDGE GOLDBERG: Anything else?

MR. YORK: Nothing further, Your Honor.

JUDGE GOLDBERG: All right, step down. Next witness.

FRANK OWEN,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. York:

Q. Would you give us your full name, please sir?

A. My name is Frank Owen.

Q. Where do you live, please sir?

A. 5503 Montoya, El Paso, Texas.

Q. How long have you lived in El Paso, Texas?

A. I've lived in El Paso County all of my life. I was born there.

Q. And how old a man are you?

A. 47.

Q. What is your present business or profession, please sir?

A. I am an attorney.

Q. Do you actively practice in El Paso?

A. Yes, sir.

Q. Have you held any public office in that county or from that county?

A. Yes, sir.

Q. Would you describe that briefly?

A. I was State Representative, first elected in 1950 until 1954 when I was elected in a special election to go to

the Senate, the State Senate. When my term expired, I chose not to run for re-election. At that time my term expired January 1965.

Q. All right, and have you been in the private practice of law and not in any public office since that time?

A. Yes, sir.

Q. Were you one of the candidates in 1972 when Senator Santiesteban was elected?

A. Yes, sir. I offered myself one more time for the State Senate. There were five candidates, three Anglos and two Americans of Mexican descent.

Q. All right. And this was the race we have already heard about wherein the then State Representative Paul Moreno and then State Representative Santiesteban succeeded in getting into the run-off and were ahead of you, both were ahead of you?

A. Yes, sir.

Q. All right. How would you describe, having grown up in El Paso and having grown up in the El Paso Schools and been in public office from there and served as a lawyer and public servant, how would you describe the relation between the Mexican-Americans in El Paso County and the Anglos?

A. I would have to give you just a very brief history. I grew up in the schools down in the valley, what they call

down the valley which is 40 miles from El Paso. I grew up on a farm. Other than my sister, the only people I ever knew were the Mexican people. And I knew them to be warm, affectionate and good people. They were the people I grew up with. When I went to grade school, the little town of Tornillo, I think there were two Anglo students in a class of about 50. I was one of those.

When I went to the Fabens Public School System, the proportions were a little bit different, but I think that we should clear one thing up, to this Honorable Court. The minority, if you want to characterize it that way, and I don't think it's quite accurate, the minority in El Paso County is the Anglo population. We are talking about protecting the minorities all the time and in El Paso the Anglos are the minority. And this is something that we all grew up with not knowing the difference. I didn't know the difference until amputation has been started in the last 12 years and I've come to know the difference now. But I didn't know the difference until that took place.

In my graduating class I would estimate, I don't remember the figures, but I estimate that 70 percent of my graduating class, 65 to 70 percent were Americans of Mexican

descent and the rest of us were Americans of every other kind of descent.

Q. All right. In your races beginning in the '50s when

you ran first for State Representative, did you actively campaign for and seek the support of the Mexican-American community?

A. Oh yes, of course. I had many of them helping me. I couldn't have been elected without their help.

A. With the numbers being what they are in El Paso County, is there any way in the world that an Anglo candidate can get elected without very substantial support in the Mexican-American community?

A. No. I don't believe there is under any circumstance particularly if you had this single representative district. You would find that we would have grater cleavage. And the first thing you know, we would have the ward healing community type of politics I believe that grew up in El Paso County.

Q. When you first got into politics in El Paso County and on up into now, would you agree with the statement made by Mr. McAlmon whose deposition was taken as a witness for the other side in this case, that is, for the Plaintiffs, page 17 when he states that there is no formal slating organization in El Paso County, that different interests groups have different choices and they publish their choices, but there is no county wide formal slating?

A. With the exception of the Mayor's race, yes, sir, I would.

Q. Now, how does that work in the Mayor's race?

A. Well, in the Mayor's race they actively and publicly run as a slate, as a team they call it. The same thing as a team. A person who aspires to become Mayor ordinarily if he does not run as an independent, and this does happen too, of course, some candidates have been indorsed without a slate, but if he chooses to run he usually goes out and attempts to get a broad cross section of the community, as broad as you can get with our members. There are four Councilman and the Mayor.

He tries to get them from various areas of the County or the city in the case of the Mayor. In other words, he takes into consideration the geography of the situation. He tries to take into consideration too the success of the individual. Naturally, he wants an individual who has a wide acquaintanceship and usually the wider the acquaintanceship, the more successful the person is. So, he does run as a slate and names this as a team.

In the last race that occurred, this was done by two major groups. And they were pretty well evenly mixed among the ethnic groups. We don't have just Mexican-Americans or Americans of Mexican descent and Anglos, we have a Chinese community, which is substantial as Chinese communities go for this part of the country, we have a Jewish community, we have a Syrian

community, we have something of a Yugoslavian community, a Czec community and then we have other groups that are semi-religious groups that you might consider a community too.

So that's the way they do it. They try to go out and get representatives of the community.

Q. All right. And you said the slating to the extent that what you have described is a slating process, this is not done in any other races in the county?

A. No, sir. To my knowledge and experience, it has never been done in any of the other races except for the City Council and Mayor.

Q. All right. Are you aware in El Paso County of any discrimination in the sense of public facilities, either theaters, restaurants, parks, pools and that kind of thing where there is any inability on the part of any minority group to fully use those?

A. No, sir. We don't have that that I know of. I do know that there are certain areas of town that an Anglo is not welcome in. But I have never had this particular problem because I seem to get along with most of those people. But we have an area down along Alemeda Street which is in part of this, I presume some of this area that has been referred to. And some people are just not welcome in certain areas. But I don't call that the type of

discrimination you are talking about.

Q. Do you have a substantial number of Mexican-American lawyers in El Paso?

A. Well, I don't know what you mean by substantial, but we do have a goodly number I would say. I think probably we have a greater number in proportion to the total number of active lawyers, those who are in active practice, those who are not connected with companies and such as that. Where they are in the active practice, we do have a good percentage, but I couldn't estimate it for you.

Q. Are those Mexican-American lawyers active in the leadership of the Mexican-American political community?

A. Well, not just the Mexican-American political community, but the whole community. They have become interested in all phases of it.

Q. You have a number of medical doctors in El Paso who are of Mexican-American descent?

A. Oh yes, sir, yes sir, we do.

Q. All right. In your view of El Paso County, is there any way that a man or a woman can be elected from El Paso County and come down to Austin and not be responsive over a period of time to the needs of the Mexican-American community in El Paso and expect

to get re-elected?

A. No, sir. The nature of the beast--you know, this politics doesn't matter what group, how they divide up, in order for a person to represent his district and to be re-elected, he must be responsive to the needs and the best interests of that district as a whole.

And on some occasions this means that he must be responsive to a particular ethnic group or a particular religious group or a particular non-religious group, without regard to their ancestors.

MR. YORK: Thank you very much.

CROSS EXAMINATION,

By Mr. George:

Q. Mr. Owen, my name is Jim George and I represent the Republic plaintiffs in this cause, originally Doctor Willeford and intervenor Kemendo in El Paso County.

I'd like to go over a few things with you quite briefly. First of all, can you give me some indication of particular measures you sponsored in the 56th through 60th Session was it, when you were a member of the Legislature that spoke particularly to the needs of the Mexican-Americans?

A. I never have broken it down as to one particular group or the other. I can think of one thing that Senator Case from Laredo and I

pioneered. It was some of the first instruction and I believe it must have been the first grade or the lower grades of Spanish in schools. That's just one thing that happens to occur to me.

Q. Let me ask you--

A. Another thing that probably occurs to me is that we had a water problem I think in El Paso. And we acquired some protection for the underground water rights. And I presume since the population is 57 percent Mexican-Americans that that responded to their needs.

Q. All right. Let me ask you quite briefly then, was it your view as a public office holder or is it your view now that the Mexican-American community of El Paso has particularized needs distinct from the needs of the people who live in Mission Hills and other areas of El Paso?

A. Well, if you are referring to some sort of welfare grants or something of that nature, perhaps we could devise some welfare grants that would bring them up, supplement them so they could buy a house that Mr. Kemendo is selling, the type of house that he sells, that expensive sort of thing perhaps. I don't know. What do you have particular reference to?

Q. Well, this is really trying to find out the kind of response that holders of political office in multi-member districts give to the particularized needs of the individual communities that exist.

A. Perhaps I could answer it this way: I was elected and re-elected for many, many years, and many of those were without opposition except when the Republicans ran somebody against me. And perhaps that responds to their needs.

Q. Representative Ben Reyes represents a single member district that is apparently something like what you described El Paso and a large number of his constituents are Mexican-Americans. Dealing with particular problems like being able to take the drivers license test in Spanish, dealing with particular problems of language barriers, I take it your testimony is that you never sponsored any of that except this teaching Spanish generally in the first grade? Let me ask you again did you--

A. That's your conclusion and I refer you just to the record and the record will speak for itself.

Q. Let me ask you--

JUDGE WOOD: Mr. George, how does this have anything to do with discriminating against the Republicans?

MR. GEORGE: Well, I think Your Honor--again, note that my position in this case is in line with this Court's opinion in the original case.

JUDGE WOOD: That was our original opinion, but I think the Supreme Court held that the Republican party had no standing in this case.

MR. GEORGE: I don't believe that is a part of the--

JUDGE WOOD: Well, certainly the Supreme Court's decision was based primarily, it was bottomed on the proposition that the only reason they upheld this Court on San Antonio and Dallas was bottomed on the proposition that there had been a long history of racial discrimination, isn't that true? How is the Republican Party in any way interested in that? And how would that be any holding that would in any manner give the Republic Party in view of that holding any standing in this Court? That's what's bothering all three of us.

MR. GEORGE: The Supreme Court didn't pass upon the issue that this Court left undecided. In it's opinion in Graves v. Barnes, this Court said that it was not necessary to deal with the issue--

JUDGE WOOD: Wasn't that the final decision of the Supreme Court? I've read it about three times. And the last time I read it I interpreted that as the final decision.

MR. GEORGE: Well, the only thing I can respectfully urge to Your Honor is the mandate of the Supreme Court which said "Affirmed in part, reversed in part and remanded to this court", which I take a remand to this Court to mean the final order of the Supreme Court, and the remand, at least as I understand the

word, is not a final order and certainly is -- as Judge Gee used to tell me, the verb at the end of the opinion indicated that it was remanded and not rendered.

JUDGE GOLDBERG: You are suggesting, Mr. George, that if the Supreme Court had wanted the Republican Party out of the case, they would have used the word "dismissed".

MR. GEORGE: That is my understanding.

JUDGE GOLDBERG: I don't know whether I agree with that or not, but that's your position?

MR. GEORGE: That's my position, and I don't believe they spoke to it. This Court specifically held that the Republican Party's position in the case was not necessary to decide in the original opinion because its interest in single member districts were adequately met by satisfying the interest of the minority groups.

JUDGE WOOD: Well, but the Supreme Court's decision in the Regester case affirms this Court insofar as it declares unconstitutional and impermissible the action of the legislature in having multi-member districts in Dallas and San Antonio. Addressing themselves to those particular counties, they upheld us only on the ground that we had made a finding that there was discrimination as to those

particular ethnic groups and those respective counties. And the rest of it seems to me to be a final judgment. But we will note your feeling about it.

But how does this have anything to do with the Republican Party, discrimination against the Republican Party, this line of questioning?

MR. GEORGE: Well, I think that it was within this Court's judgment originally and it has been my position throughout this case that if the minority groups have been discriminated against, that any judgment rendered by this Court that grants them adequate relief will also grant us adequate relief. And this Court specifically held in the first hearing in this cause that such proof was unnecessary and that it was unnecessary for the Court to decide. And I take that language to mean and have taken it from the outset that the position of the Republican Party was that if there was discrimination against the minority groups, ethnic and racial minority groups being represented here that--

JUDGE WOOD: And you think that would include the Republican Party? The only basis the Supreme Court found for upholding this Court in making single member districts in Bexar County and Dallas was the fact that there had been a history of racial discrimination. Do you feel that that holding gives the Republican Party some standing in this Court? There is certainly no racial discrimination involved

in the suit filed by the Republican Party, or is there any racial discrimination against the Republican Party?

MR. GEORGE: Let me respond to that first. One

the Republican Party participated fully in the case before the Supreme Court. And to my knowledge, the issue of their participation was never raised by the State and has not been raised here now.

Second, the issue of the Republicans participation in the Supreme Court proceeding in this cause was not before that Court. This Court having decided that it was unnecessary to decide that issue and this Court specifically left that decision whether political minority groups have special rights in this case and that was left undecided.

And, secondly, let me remind the Court that my original plaintiff, Dr. Willeford, was in this case by virtue of the Plaintiff's complaint suing him as an official of the Republican Party of Texas along with the officials all electorial officials. That being a quasi-public office as the Chairman of the Democratic Party is and the Secretary of State is. That office was realigned as a party plaintiff on the decision of Judge Justice. And that realignment of the party plaintiff we have simply presented our position that throughout this proceeding, as the original Defendant and now realigned Plaintiff, that our interest in this litigation

continues to be that of having single member districts.

JUDGE WOOD: We have no trouble understanding the intervention on behalf of an individual defendant from El Paso County where he or she

has alleged, that is, the individual, that there has been discrimination against that particular person arising out of the fact that El Paso is a multi-member district. The trouble we are having some difficulty with is whether the Republican Party has any interest in the case in view of the Supreme Court's decision.

MR. GEORGE: I believe I have fully stated my position on it.

JUDGE WOOD: All right, let's proceed.

MR. GEORGE: Thank you.

Q. (by Mr. George:) The reason I have asked the questions about the legislation introduced, one of the issues as we understand it in the litigation is some measure of responsivness to thse particularized needs as the Fifth Circuit's inbank decision called for of minority groups.

Let me ask you, one, I have been informed that you voted against and took a public position against the repeal of the poll tax in Texas. My information is a little sketchy and I wish you would clear it up. I have been told by your primary opponent in the last Democratic election that you voted against--

MR. YORK: I believe Counsel is testifying. He can ask the witness. He doesn't have to

tell him anything.

MR. GEORGE: Thank you, Mr. York.

Q. (By Mr. George:) Did you vote against the repeal of the poll tax?

A. Yes, and I could go into three days worth of reasons why at that time under those circumstances I felt it should be voted against. But there is no sense cluttering up the record here and taking up this Court's time. But I'll be glad to tell your privately.

Q. Thank you very much.

JUDGE JUSTICE: Did I understand that he voted against the repeal of the poll tax?

THE WITNESS: Yes.

Q. (By Mr. George:) That's my understanding. My prefacing remarks were a little bit confused. One other vote that again I'm not exactly sure how this is, but did you sponsor a bill to make the display of the United Nations flag in Texas schools unlawful?

A. I sponsored a bill which would deny state funds to any organization, which would deny state funds if a foreign flag was flown over, and it included the United Nations flag, over state supported institutions in lieu of the Texas flag. Yes, sir. And in lieu of the United States flag.

Q. Are you in the banking business?

A. Yes, sir. I have some other businesses too.

Q.Are you an officer or director in a State chartered bank?

A. Yes.

Q. When did you first acquire that position?

A. About eight years ago.

Q. When was the charter of that bank?

A. About eight years ago.

Q. Approximately the same time you were a new Director?

A. Yes, I was a founder.

Q. Were you a State Senator at that time?

A. My term had not expired, no. It had not expired.

MR. GEORGE: That's all I have, Thank you.

CROSS EXAMINATION,

By Mr. Korbel:

Q. I'm George Korbel representing the Plaintiff's Moreno, et al. Now, you say, and I think correctly so, the Mexican-Americans have a majority, at least a racial population majority in El Paso County, isn't that correct?

A. Yes. That's not including of course those that have other Mexican ancestery that had intermarriages. It is the ones that are clearly definable.

Q. Well, if the United States census said that the Mexican-Americans were 56.87 percent of the population, you wouldn't disagree with that, would you?

A. I haven't taken the census.

Q. Now, if George McAlmon, the Democratic,

immediate past Democratic County Chairman said by deposition, by sworn deposition, which is in testimony before this Court that Mexican Americans only accounted for 38 percent of the registered voters in El Paso County, would you deny that?

A. I wouldn't have any basis of challenging that because I don't know the source of his information is.

Q. If he said he counted them, you wouldn't deny that.

A. I know George. If George said he counted them, I would have no reason to dispute George.

Q. So, when you talked about Mexican-Americans being a population majority, you are distinguishing that from being an electorial majority?

A. No, I'm not making that distinction. You are.

Q. The fact is that there are 38 percent Mexican-American registered voters and there are 62 percent Anglo registered voters, isn't that correct?

A. I think the mathematics would speak for themselves. Yes, sir.

Q. Now, you said that you voted against the Poll tax?

A. Yes, sir.

Q. You did that in the interest of Mexican-American political participation?

A. I did it in the interest of the entire district that I represented.

Q. And that included Mexican-Americans?

A. That included everyone who was in the district.

Q What was the percentage of Mexican-Americans in that district at that time? Would you say it was around 56 percent, the way it is now?

A No, no, because I represented nine counties. I don't know what the percentage would be. Perhaps 20 percent, maybe 25 percent.

Q Are you aware of the fact that until 1968 the schools, the El Paso Independent School District had a no-Spanish rule and the children were institutionally punished for speaking Spanish on the school grounds.

A No, I'm not aware of that. I know that we were the first school district to intregrate in the State of Texas.

Q When you say intregrate, that's --

A I know that we haven't had the problems that other places have had. I do know that.

Q But if the Civil Rights report indicated that the school district still had a no-Spanish rule as late as 1968, you wouldn't deny that?

A I can't vouch for the Civil Rights Report.

Q You said that you were a co-author of an early bilingual education bill. While you were a State Representative or a State Senator I should say from El Paso County, did it occur to you to look in and see what the Schools were doing in El Paso County with reference to bilingual education?

A Oh, yes. We had that understudy for a long time.

I was in constant contact with my school superintendents because we have two large school districts in El Paso. I worked with them and accepted their recommendations. They were the people who were skilled in that particular field. And worked very closely with them as well as at that time the common school districts.

Q And Mr. Pruitt would be one of those principals?

A Mr. who?

Q Mr. Pruitt I believe his name was.

A No. I don't know a Mr. Pruitt.

Q You were asked about particuarlized needs of Mexican-American people and you said "Well, maybe welfare grants." Do you suppose they have any other particuarlized needs besides welfare programs?

A Oh, sure. All people have particularized needs. And not just those of Mexican descent, but some of them of Yugoslavian descent that we have in El Paso have particular needs, some of Czech descent, some of Italian descent, some of French descent. We have many people who have particularized needs. People are people and people's needs are something without regard to the religious or ethnic background or ancestry.

Q What are those particularized needs?

A Well, I think you know as well as I do the basic needs that people have, the basic motivations that people

have in order that their ambitions and desires may be fulfilled and that they may dream and accomplish those dreams.

Q I'm asking you what are those particularized needs that you say exist and you said welfare.

A All right, sir, they need education. They need the opportunity for a job. They need their job security. And all of us need these things.

Q Okay. But particularized needs now, you agree that there were particularized needs. Can you identify the particularized needs?

JUDGE JUSTICE: Are you speaking of Mexican-Americans?

MR. KORBEL: Yes, sir.

Q (By Mr. Korbel:) It's easy to say jobs, that type of thing. It's easy to say welfare, Mexican-Americans need welfare. I want to know the particuarlized needs you say the Mexican-Americans have.

JUDGE WOOD: In what time frame?

Q (By Mr. Korbel:) At the time when you were State Senator.

A Well, we're talking about 20 to 25 years ago. They had their health care needs that we worked through the State Health Department including hospitals, hospital grants, the Hillburton funds that I was instrumental in assisting in.

Q As State Senator?

A I don't know whether I was a State Representative or a State Senator at the time, but I do know that I worked toward those ends.

Q I would still like to know how you can justify voting against the repeal of the poll tax.

A Well, if the Court has the time. It's not a matter of justification, it was a matter that at the time the poll tax -- I know what the arguments were against it and I know what the arguments were for it. We are talking about a mute question, completely mute. But the arguments were that it kept some people from voting. And that may have have been true to some extent, but it did not keep people from voting who wanted to actually go vote.

Q If I told you that the immediate past Chairman of the Democratic Party, George McAlmon, said in deposition that one of the matters which seriously affected Mexican-American participation today has been the poll tax, would you agree with me then that you were a party to that serious effect against Mexican-Americans.

A No, I don't agree with your damming conclusions because it's only your opinion. And I do not agree with George that it has that effect.

MR. KORBEL: I have no further questions.

MR. GLADDEN: I was in, if it please the Court --

JUDGE GOLDBERG: 600 miles away.

MR. GLADDEN: I understand. I served with Senator Owen at the time that he cast the poll tax vote. And while he may show some reservations over taking the Court's time to explain it, I would appreciate him explaining to the Court as to why he did it and what his reasons were for voting against the repeal of the poll tax.

JUDGE GOLDBERG: Mr. Gladden, do you really think that's germane to the decision in this case? Do you want us to sit here and listen to this for a day and a half?

JUDGE WOOD: Ten years ago.

MR. GLADDEN: I thought perhaps he could answer it in less than a day and a half. But if the Court feels like it's not germane, I'll withdraw my question. Thank you, Your Honor.

REDIRECT EXAMINATION,

By Mr. York:

Q Senator Owen, we have had talk in this case about a variety of different kinds of slurs, racial and otherwise. But I don't think it would be fair to you not to give you an opportunity to respond publicly to the public slur that was layed at your feet by Mr. George when he asked you about getting a bank charter while you were a State Senator. Did you commit any impropriety in doing that?

A No, sir. That is always the campaign implication and Mr. Kemendo is responsible for that as he was during the campaign. And I really don't care to respond to it except that I committed no impropriety. I never have and don't intend to. And if we get into a matter of personalities there are all sorts of things that can be dredged up.

MR. YORK: Thank you very much, Senator.

MR. GEORGE: I have no more questions.

MR. KORBEL: We have nothing further, your Honor.

THE WITNESS: May I be excused, Your Honor?

JUDGE WOOD: May this witness be excused?

MR. YORK: He certainly may, Your Honor, and we appreciate Counsel's indulgence in letting us put these two witnesses on out of order.

JUDGE GOLDBERG: Mr. Gladden, I hope you understand the Court's ruling with respect to your withdrawing the question. If he had answered it, I think we would have just taken and undue amount of time. I'm not trying to cut you off.

MR. GLADDEN: I understand, Your Honor. I have no quarrel with the Court's ruling. I think we debated this together 10 years ago. I heard his views 10 years ago and didn't agree with them then.

JUDGE GOLDBERG: You may be excused, Senator. Next witness.

MR. GEORGE: I would like to call Mr. Vincent Kemendo, please.

VINCENT KEMENDO,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. George:

Q Mr. Kemendo, would you state your name and address, please.

A My name is Vincent Kemendo and I live at 6800 Pino Real, El Paso, Texas.

Q How long have you lived in El Paso?

A 35 years.

Q How old are you?

A 35.

Q Have you been involved in politics in El Paso County?

A Yes, sir.

Q Would you describe your political involvement for the Court, please.

A In 1962 I was active in the Republicans race for County Judge and also for Congressman's race from the 16th Congressional District.

In 1964 I was active in the Goldwater campaign.

In 1966 I was active in Senator Tower's re-election campaign. In 1968 I worked for the re-election or the election of President Nixon. In 1970 I ran for County Commissioner on the Republican ticket.

In December 1971 I became the Republican County Chairman by appointment from the Republican Executive Committee. In 1972 I ran unopposed to this position and have held it ever since.

Q You presently --

A I'm presently the Republican County Chairman.

Q In that capacity, have you been required to -- have you made a study of the political history of El Paso County and who has held office?

A Yes, I have, in relation to two things primarily, State Representatives and County Commissioners.

Q First of all, has a Republican ever been elected State Representative from El Paso County?

A Not to my knowledge.

Q Nor State Senator?

A Not to my knowledge.

Q You have in your possession what has been marked as Republicans Exhibit Number 10.

A That's true.

Q Can you identify that, please?

A This is a list of State Representatives complied

by the County tax Assessor's Office. It was done under my direction and at my request. It lists all of the State Representatives since El Paso County has been holding elections or at least since the County Clerk has been keeping those records from 1886 to the present. I have every single State Representative. There are 50 of them. And I have every County Commissioner since 1886 and there are 67 different individuals.

Q All right. How many persons of Mexican-American surnames do you find or Mexican-American names do you find had held office as State Representatives from El Paso?

A There are four of them and they are all underlined on this sheet.

Q Four out of 50?

A State Representatives, yes, sir.

Q All right. Second, how many County Commissioners were there?

A Out of 68, there have been 17 Mexican-American surnamed County Commissioners. They are underlined. There were two on the first Commissioner's Court in 1886 and there are two on the present Commissioner's Court, one of them has been there since 1960 and the other has been there since 1962.

Q Let me ask you this: Do County Commissioners run from single member districts?

A Just like the rest of Texas, they run in districts and precincts. There are four of them.

Q There are four members?

A Yes, sir.

Q Can you describe the current single member commissioner's Court districts in terms of --

A Well, of course they primarily take up one quarter of the population of the county. But there are two of the County Commissioner's Precincts who are predominately Mexican-American. They are reflected by those who have been elected. And the other two are primarily Anglo.

Q All right. Are the two that are primarily Mexican-American, the seats in those held by persons with Mexican-American surnames?

A Yes. One of them's names is Sanchez and the others name is Telles.

Q Do you know where these Mexican-American County Commissioners live?

A Yes, I do.

Q Do they live in predominately Mexican-American areas in El Paso?

A They live predominately in Mexican-American areas of the Commissioners precinct, yes.

Q And they are predominately Mexican-American precincts?

A Correct.

Q I have handed you what has been marked as Republicans Exhibits I believe 11 through 15.

A Yes.

Q Describe to the Court what those are.

A This is a certified copy, a partial list of registered voters for El Paso County. It is a partial list that contains the names and addresses of the two Mexican-American County Commissioners and the three or four Mexican-American Legislators. The one in 1958 there is no record. But this certifies their names and addresses.

Q Do you know where those addresses are in El Paso. Do you know where 100 Pecan Street is?

A I know the area of town in which they live.

Q All right. Were the Legislators homes in the predominately Mexican-American area?

A No. I would have to say no to that question. The only one that might be considered in a Mexican-American area would be Paul Moreno. And he is certainly not in what has been stated before this Court to be the South side.

Q All right. Can you tell the Court where -- I don't believe it's on the certified list, but from your own personal knowledge where the current State Senator who I believe has a Mexican-American surname lives in El Paso?

A He's on this list.

Q He's on this list?

A Yes. He lives La Cruz Street which is what they call Mission Hills which is predominately homes of $40,000 and up.

Q Is that one of the highest income areas in El Paso?

A I would say it is one of the three highest income areas in El Paso.

Q I suspect in your job as County Chairman you are aware of political activity in El Paso County?

A I hope so. That's my job.

Q Let me ask you to tell us a little bit about the campaigns that have been run for the State Legislature and those that have been run for these County Commissioners seats.

A Concerning what specifically?

Q Well, the nature of the legislative campaigns and the nature of the County Commissioners campaigns, do people campaign in the same way?

A Well, in the State Legislative races, the multi-member district has 290,000 people in it, just about. And it comprises three-quarters of the county. And there is another district that takes in El Paso County and five other counties. And the type of races that are run when they have 290,000 people running is that there are a lot of candidates who want to win today, that is, 1972, 1973, 1970. He has to spend a lot of money on television. He has to put out a lot of direct mail and a lot of that type of advertising

[470]

in order to get his name to the 290,000 people.

Now, in the Commissioners races which are run, as I say, in single member districts comprising about -- oh, there are a little over 300 some odd thousand people in the whole county, 279,000, something like that, my arithmetic is pretty close, they run primarily in the Democratic primary. In my race for County Commissioner I spent $4,500 and I got 47 percent of the vote against a Democratic incumbent.

I did it primarily on billboards, bus bench ads and going from door to door.

Q Those billboards are located in the area?

A In the area. I went door to door in each and every precinct. This is primarily what is done in the Democratic primary. I had one newspaper ad the day before the election and it was a big ad. Most of them if they run ads at all run real small ones. And they primarily go from door to door or meet with their constituents in various areas. They don't run extensive expensive campaigns.

Q Do you know approximately how much money is spent on a serious race for the State Legislature in El Paso?

A That would be hard to say, but I would say in excess of $20,000.

Q All right. How much does the office of the State Legislator pay?

A $4,800 a year.

[471]

Q How much does the office of County Commissioner pay?

A $1,5000.

Q So it costs --

A Plus an expense account.

Q Plus an expense account. Okay. And you say you spent $4,500 for that race?

A Yes. It only paid $9,000 at the time but I thought it was a good deal.

Q All right. Finally, have you in your political activities -- I suspect that you are involved with the organizing of political activities and other things. When a Mexican-American announces for a political office, have you noted any kind of a particular response or the types of campaigns that are urged in the Anglo community of El Paso that are different when two Anglos are running?

A Yes, I think it's definitely true. You must remember that a majority of conservative, what I call November Republicans vote in the Democratic primary. And they live primarily in the so-called Anglo area I have spoken about. I can say because I've heard it. I can't document it in the newspapers or any place else, but I know it happens because I'm there. There are whisper type campaigns conducted against -- I've heard of it and I know it's true and it happens where I go and I heard people making these statements at social gatherings

at political functions too.

Q These whisper campaigns, the nature of them, what do they say exactly in the Anglo community?

A They say when there is an Anglo running against a Mexican-American that you can't let the Mexican-American get elected.

Q You'd better get out and do something?

A Get the vote.

Q Because the Mexican-American will take over if your not careful or something to that effect?

A Well, they just don't want them elected.

Q Is this tendency, this type of whisper campaign born out in the election? I assume you have studied the election results.

A As County Chairman, this is the first thing you do the day after the primary or general election.

Q Right. Has your study of election results shown that these types of whisper campaigns have been effective?

A Yes, you are always interested in the morning after the election, you pick up the paper and read the official returns. And in the predominately Anglo areas of El Paso when a Mexican-American is running against an Anglo, the Mexican-American does not receive percentage wise very many votes. The Anglo candidate receives the vast majority of the votes.

Q The vast majority of the votes. Even when a Mexican-American candidate happens to live in the same general vicinity?

A I would say that's true,yes.

Q Is this enhanced or not when the Mexican-American candidate -- Has there ever been a Mexican-American candidate from the so-called southside?

A Not to my knowledge in the state Legislature. No. Nor in the County wide offices for that matter.

Q There was mentioned in the testimony here today concerning Mexican-American participation in at-large elections for city governmental posts.

A That's correct.

Q Is that city governmental post run in a non-partisan election?

A It is run in off years and it is non-partisan.

Q Okay. I believe there is some kind of -- there was some testimony about a slating process that goes on or a ticket process.

A Yes, it is a slating process. It's been going on now for almost 20 years in El Paso.

Q Are you familiar with how the slating process works?

A Yes, I worked with it.

Q You have worked with it?

A Yes. There is a business man's group so-called. It's informal. It puts together a slate and raises money.

Q Are you a part of this group?

A I have worked in it. Prior to the time I became County Chairman I was very active in it. But since it is non-partisan, I have not worked in it very much since then. But prior to that, I did work in it. I worked especially in 1971 on one of the few losing causes. I don't know if that has any connection.

Q Okay. I take it that this group has won nearly all of the elections.

A To my knowledge since this has been going on for almost 20 years, they have only lost two races for mayor. They have always gotten at least half or the majority of the city council.

Q So, if they have the Mayor and two Councilmen, they have control of the City Government I suppose.

A That's correct.

Q And this business man's group that you are a part of, I take it -- there has been testimony that there are Mexican-American candidates on the slate, is that right?

A Yes, there is always at least one.

Q What is the process of selecting the people for that slate?

A They go out and find someone with a Mexican-

American surname and ask him to run who might be a member of the business community.

Q Is there any attempt to contact the Mexican-American community leaders? I don't know who Mexican-American community leaders are except Catholic Priests or something like that.

A No. I would answer that no. Primarily the so-called southside Mexican-Americans, the name that has been brought up here pertaining to El Paso County are not even consulted, no.

Q So there is never a County Chairman or anybody in the southwide who is politically active?

A No, not to my knowledge.

Q Do you think you would have knowledge of that?

A I know I would.

MR. GEORGE: I believe that's all I have.

CROSS-EXAMINATION,

By Mr. Korbel:

Q I have just one or two questions, Your Honor. First of all, is there any way you could cut El Paso County into State Legislative districts, into four State Legislative districts without at least insuring an excellent chance for two Mexican-Americans to serve on the State Legislature?

A I can assure you that two Mexican-Americans would

be elected primarily by the fact that 90 percent of the people that live there are Mexican-American.

Q What would the percentage population be in those districts, roughly, if you know.

A Around 75,000.

Q What would the percentage of Mexican-Americans in those districts be?

A In the two Mexican-American districts they would be overwhelmingly Mexican-American.

Q And that would give them more of a chance to elect someone?

A I would say yes. It would give them an excellent chance.

Q What are the most votes that a Republican has ever got in the primary running for the Texas State Legislature?

A Well, I can't say exactly in the primary. Are you asking me how many total votes they have had in the primary?

Q Yes, sir.

A Well, the most we had was 3700.

Q How would that compare with the Democratic primary?

A 50,000.

Q In the Democratic primary they had 50,000 votes?

A Yes, sir, they did.

Q And that would be because of what you term the

November Republicans, is that right?

A Yes, sir.

MR. KORBEL: I have no further questions.

CROSS EXAMINATION,

By Mr. York:

Q Mr. Kemendo, you have described your political activities I think beginning in 1964.

A 1962.

Q 1962?

A Yes, sir.

Q My notes, if I took them down correctly, indicate that you said in 1964 I believe you had worked for Senator Goldwater, and then after that for Senator Tower. And then you mentioned 1968 an effort to re-elect the President.

A To elect the President.

Q To elect the President. I didn't find any notations that you were active in an effort to re-elect the President in 1972.

A Well, I was the County Chairman. I think that's synonymous with re-electing the President.

Q Did you leave out the year 1972 a while ago?

A No. I didn't mean to. I was active in politics in 1972 because I was the County Chairman. I have been active ever since. Also I didn't say I had worked in city

elections. I forgot that. I had.

Q Okay. In terms of responsiveness to the needs of the Mexican-American community, how did Senator Goldwater fair in the Mexican-American community in 1964?

A He got killed.

Q How does Senator Tower usually make out?

A Senator Tower usually does much better. He doesn't get the majority, but he gets a better minority than many Republicans.

Q Okay. How do these whisper campaigns work? If you are at a social gathering, do people really whisper to you?

A No. They say it right out.

Q It would be more of a say it right out campaign than a whisper campaign.

A I use the word whisper because it doesn't come out in the newspapers and things like that. But people of the community talk among themselves and they say that they are not going to vote for the Mexican-American candidates and it is borne out in the election results.

Q I assume that there are conversations whispered or otherwise that they are not going to vote for the Anglo candidate.

A They vote.

Q No, I mean among the Mexican-Americans, do you

suspect that they may occasionally say "we are not going to vote for the Anglo. We'd better get out and vote."

A I would assume so, yes.

Q And you assume that the democrats might at some point in the future make such statements about Republicans?

A Probably.

Q Liberals might make such statements about conservatives?

A I would assume so, yes.

Q Okay. You have indicated that you believe -- talking about the polarization of the voting between the Anglos and the Mexican-Americans, we have heard you say that you believe that it pretty well will be polarized, if you have got one versus the other that Anglos vote one way for the Anglo and the Mexican-Americans vote for the Mexican-American. Right?

A That is primarily true, yes.

Q You are aware of the testimony we have just heard here in this Courtroom concerning the race with Senator Santiesteban when he won?

A I am very aware of that.

Q That was against least three Anglos.

A That's true.

Q And another Mexican-American.

A That's right, Mr. Moreno.

Q As County Chairman, were you County Chairman in 1970?

A No. I ran for County Commissioner in 1970.

Q Were you active in any way in the Mayor's race where the Republican ran for the Mayor in 1970 in El Paso?

A The race was in 1971.

Q Was it '71?

A One of the off years, the Mayor's race.

Q Were you active in that?

A No, sir. It was a losing cause. The man is --, yes I think he's a Republican. He ran for Mayor and lost in 1971.

Q Your new Mayor is a Republican?

A He is, yes. He was the former Vice-Chairman of the Party.

Q Well, which race is it now, I get confused about the time, there was a suggestion made awhile ago that there were racial issues used in the Mayor's campaign recently. Was that the '73 campaign?

A Yes. I got that from what he said. I think he had his years confused. But if he was talking about the Mayor, that was the man.

Q Well, do you concede that the Republican candidate used racial tactics in the race?

A Perhaps. Yes, he probably did.

Q Did you have any part in indorsing that?

A No, I wasn't working. I was County Chairman as I testified, but I wasn't active in that race.

Q Okay. Did you have anything at all to do with that race?

A Not myself, no.

MR. YORK: Okay. Thank you very much.

MR. KORBEL: I have just one thing, Your Honor.

RECROSS EXAMINATION,

By Mr. Korbel:

Q As a matter of fact, those city races, the Mayor's race we are talking about are non-partisan, aren't they?

A They run in the off years. You do not run in the primary. They file for the office and they have a run-off and the guy that gets the most votes in the run-off wins.

Q They are non-partisan?

A They are non-partisan.

MR. KORBEL: That's all.

JUDGE GOLDBERG: Mr. Gladden, would you care to interrogate?

MR. GLADDEN: No, sir, thank you very much. I don't believe I need to ask him any questions.

JUDGE JUSTICE: Is the name Kemendo Spanish?

THE WITNESS: No, it is Italian.

JUDGE JUSTICE: Thank you.

MR. GEORGE: May Mr. Kemendo be excused now?

JUDGE GOLDBERG: Oh, yes.

THE WITNESS: Thank you, Your Honor.

MR. GEORGE: Oh by the way, I believe I need to offer these exhibits.

JUDGE GOLDBERG: Next witness.

MR. RICHARDS: I call State Representative Paul Ragsdale.

PAUL RAGSDALE,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Richards:

Q Could you give us your full name, please sir.

A Paul Ragsdale.

Q And you live in Dallas, Mr. Ragsdale?

A About five-and-a-half years.

Q You are a State Legislator from Dallas County, is that correct?

A Yes, sir.

Q How old are you?

A 28.

Q You are a graduate of the University of Texas, is

that correct?

A That's correct.

Q And you have a degree in --

A Socialogy.

Q Socialogy? When were you elected to the Legislature?

A In November of last year.

Q That would be --

A 1972.

Q 1972. Was this the first time you ran for public office when you ran for the Legislature?

A Yes, it was.

Q Were you elected in one of the single member districts that were created by Federal Court in Dallas County?

A Yes, I was.

Q How much money did you spend in your total campaign expenses for your election?

A Close to $3,500.

Q How many opponents did you have?

A Five.

Q Did you have a run-off as well as the first primary election?

A Yes, I did.

Q During the time you have served in the Legislature from Dallas County, have you had an opportunity to observe

particuarly the black minority community in Dallas, it's awareness and interest with respect to the Texas Legislature in matters affecting the State Legislature?

A Yes. There has been and there is a currently growing interest in the Legislative process.

Q Is this in part you think attributable to the fact of a single member district, single member districts in Dallas County?

A I would think so. Prior to the advent of single member districts, not very many blacks it seemed to me were aware of what the legislature was all about.

Q And what is the situation now?

A There is a greater awareness because of the visibility of the people elected from the single member districts as opposed to the at-large districts.

Q As you have seen it, what is the effect with respect to the development or articulation of issues that speak to the particularized needs of the minority community? What effect has the single member district had on that?

A Well, I think it has had a meaningful and positive impact.

Q How so?

A Well, for example the kinds of legislation that is being sponsored or that was sponsored in the last legislative session.

Q By representatives from the single member districts you mean?

A Yes.

Q Specifically, can you call to mind an issue in Dallas for example that was one which you addressed yourself to which was in your opinion particularly responsive to the wishes or needs of the minority community in Dallas?

A Yes. I sponsored a bill which created single member districts for the Dallas School Board. As far as I can understand this is the first time in Texas history that the Legislature has ever accomplished this, had ever made such a move.

Q And now as a consequence of -- Was this an issue in which the black minorities in Dallas in particular were substantially interested in?

A Yes. As a matter of fact, it was one of my campaign committments. It was a part of my platform.

Q What impact, if any -- Do you know what I mean when I refer to the DCRG?

A I certainly do.

Q What impact, if any, did the DCRG Organization have upon your race and the other single member legislative districts during the 1972 campaign?

A Insofar as I could tell, they had almost no impact.

Q Those races were run and won by candidates indep-

endent of slating, is that correct?

A. There was no DCRG slate as such. Candidates filled it, but there was no slate.

Q. There were candidates able to make their own races by contacting the people in the community?

A. Yes, sir, that's the way I did it.

Q. Okay. Well, there were other candidates too, legislative candidates who ran their races by going from door to door and talking to people, weren't there?

A. Certainly.

Q. Jim Maddox was one, was he not?

A. He certainly was.

Q. I know you may have some selfish view in response to this question, but in your opinion have the needs of the minority community in Dallas been better served and better represented by the current single member district delegation than they had been in the previous at-large delegations?

A. Undoubtedly.

Q. Do you think they would so agree, the minority community?

A. Certainly. I might add that single member districts, this concept is popular all over the county, now, there is a preference for single member districts over most anything else in the county, because of the way we responded at the last session of the legislature.

Q By the way, is that in the total community and not just limited to the black minority community?

A The total community.

Q All right. Looking to the legislature as a whole, in your opinion have the single member district delegations from Dallas and Bexar Counties generally been more responsive to the particularized needs of the minorities, black and Mexican-Americans than the at-large delegations from the other urban counties?

A In my opinion, yes.

Q Now, there's been some testimony and I don't believe you were present today, but there's been some testimony from some black residents of Travis County that they have sought you out and talked to you even about their problems here in Travis County. Has that been true in regard to other black residents across Texas?

A Yes, and in the rural areas also.

Q All right, sir. And do you feel that you have some acquaintienceship with the black community in the other urban areas of Texas?

A Yes, sir, I certainly do.

Q Okay. Based upon that experience and that observation, would you say that with respect to the black communities of Tarrant County, Jefferson County, Travis County and McLennan County that those black communities are suffering

many of the same kinds of disabilities that were suffered by the black community of Dallas County under it's at-large representative scheme.

A Would definately say so. The black population as in the case of Dallas was a distinct minority when you talk about voting strength. And their needs in a large measure gets submerged by the larger communities representation.

MR. RICHARDS: Okay. That's all the questions we have. We pass the witness.

MR. GOLDBERG: Mr. George?

MR. CRAWFORD: If I might, Phillip Crawford representing the Plaintiff Chapman et al.

CROSS EXAMINATION,

By Mr. Crawford:

Q Mr. Ragsdale, there has been some testimony with reference to persons living in Travis County having come to you for assistance. This is a fact, and others across the State. Has this in any way been a burden upon you in representing fully and totally your single member district in Dallas County?

A Well, with black populations from these other areas contacting me, I certainly have to forego some of the needs of my own individual district in order to spread my time

around and work on some of these other problems, people in other areas.

Q Then would it be fair to surmise that there is a lack of ability of communicate with others who may attempt to represent these views of minorities?

A Apparently so because I certainly have been contacted.

MR. CRAWFORD: That's all the questions I have.

JUDGE GOLDBERG: Mr. Gladden, would you care to interrogate your neighbor to the east?

MR. GLADDEN: No thank you, Your Honor. I think Mr. Truan when we get him here.

JUDGE GOLDBERG: Mr. York?

CROSS EXAMINATION,

By Mr. York:

Q Mr. Ragsdale, have you lived all of your life in the Dallas area?

A No, sir, I sure haven't.

Q Where have you lived in Texas other than the Dallas area?

A I grew up in east Texas in a rural area outside of Jacksonville, a little black community. I lived there until I was 16 at which time I moved to Austin.

JUDGE JUSTICE: What was the name of the community?

[489]

THE WITNESS: The Mount Haven community in Cherokee County.

MR. YORK: The Eastern District of the United States if the Court please.

JUDGE JUSTICE: I was formerly a resident of Henderson County.

THE WITNESS: At the age of 16 I moved here which was in my last year of high school. Then I went to the University of Texas. I moved to Dallas in 1968.

Q Okay. So you have not ever lived in Ft. Worth?

A No, sir, I sure haven't.

Q You've not ever lived in Jefferson County?

A No, I sure haven't.

Q Or not ever lived in any other county in the State other than the ones you have described? Is that right?

A Yes, these would be the areas of my residence.

Q Being totally fair to the Court and to both sides of this litigation, don't you think that it might be a little bit presumptious on your part to seek to tell the Court about the problems in Jefferson County? Maybe "presumptious" is a bad word. But I mean being totally fair about it, do you believe that you are completely in touch and aware of the problems of the black community in Jefferson County?

A I'm certainly not aware of all of the problems in Jefferson County no more than I am all aware of the problems

[491]

in Dallas County.

Q Are you equally aware of the problems in each county then?

A No. I'm certainly more familiar with Dallas County. I have been sought out on occasions by people not only from these counties you mentioned, but some of the other counties for assistance. Tarrant County in particular, it being a neighbor, a next door neighbor to Dallas County. The blacks over there have contacted me --

JUDGE GOLDBERG: Mr. Ragsdale, I can't hear you.

THE WITNESS: The blacks over in that area as well as other groups of people not all black have contacted me in regard to single member districts.

Q All right. Now, on that point, by the way, is there anything particularly uncommon on the legislative process for groups who are interested in a particular thing to go to a member of the legislature or to a Senator who lives outside their district to ask for help in a program or in an area that they know that particular Representative or Senator can be helpful in?

A I don't know. It would seem to me -- I know that the people of Ft. Worth certainly felt that their delegation was in a large part unresponsive to their needs or their cries for a single member district. And this is the reason they sought me out because I've been rather vocal on the subject

of single member districts.

Q. I understand you. But what I'm asking you is, is it uncommon for people to go from say Austin who are interested in a particular thing to a Representative or a Senator from another district if that particular man or woman is a leader in that area or can be helpful to them.

A. Well, absolutely not.

Q. All right. There are a lot people beating on Senator Mauzy's door about a consumer protection bill which was passed this last legislature and they certainly were not all from the Dallas area, were they?

MR. RICHARDS: I suggest regarding Senator Mauzy that we may call him as a witness. He would be the best person I think to answer that question rather than Senator Ragsdale.

JUDGE GOLDBERG: We've let the bar down here pretty good. I don't want to erect any artificial barriers at this point. Let's get it moving.

Q. (By Mr. York:) Sir?

A. I don't recall the question.

Q. Well, I've just asked you, you know for instance that Senator Mauzy was very active in the passage of the consumer protection act, an act which our office was particularly involved in, and there were people from all over the state who recognized Senator Mauzy as a leader in that

area and came to him for his support and activity on that question.

A It may not be unusual for a people to contact a Legislator from outside their district. However, the reason that I was contacted was because most of the delegation over there in Tarrant County, the black people felt most of the delegation were unsympathetic to their cries for single member districts.

Q All right, sir. Now, in 1970 did Joe Hawn run for the Legislature from Dallas County?

A So far as I know, yes.

Q And was he successful?

A Yes.

Q And did Chris Semos run?

A Yes.

Q Successfully?

A Yes.

Q Ben Atwell?

A Yes.

Q Now, the Chris Semos race, would it surprise you to learn that in 1970 in a multi-district situation, the reported campaign expenditures in that race were $4,000 and that in the Semos race in 1972 under a single district situation or single member district that the expenditures were roughly $6,000?

A Well, I'm not aware of that.

Q All right. In the case of Mr. Hawn, I believe the figure would show a reduction, in other words in 1970 would it surprise you particularly to see that his expenditures totaled about $3,700 in 1970 under a multi-member situation and he was able to spend about $1,000 less than that in the next year in a single member situation. Would that surprise you particularly?

A Yes, it would.

Q You understand I'm asking you there, it went down by about a thousand dollars in 1972, down about a thousand dollars from what it had been in 1970.

A In 1970 we of course had at-large voting in Dallas County and there was the slate politics which was practiced by the DCRG. And in 1972 with individual districts we had to be responsive to the people in these specific areas. And I would expect that the expenses would be less under this arrangement.

Q All right.

A As a matter ofact, in my own race last year there were eight run-offs in the primary. I believe that's correct. And of the eight run-offs I believe that I received more votes than any other member of the Dallas delegation. There were seven others who were running.

MR. YORK: Thank you very much, Mr. Ragsdale.

REDIRECT EXAMINATION,

By Mr. Richards:

Q I suppose Mr. Ragsdale that one explanation for the fact that Mr. Semos and Mr. Hawn may not have spent very much money in 1970 was that they were on the DCRG slate and the DCRG organization financed their campaign for 1970, didn't they?

A Yes.

MR. RICHARDS: That's all we have.

JUDGE GOLDBERG: Anything else?

MR. RICHARDS: Nothing further from Mr. Ragsdale.

JUDGE GOLDBERG: Step down, Mr. Ragsdale. Next witness.

SARAH CATHRYN RAGEL WEDDINGTON

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Richards:

Q Would you give us your full name, please.

A Sarah Cathryn Ragel Weddington.

Q You are a State Legislator from Travis County, is that correct?

A I am.

Q Elected in 1972 for the first time?

A Yes.

Q In connection with your election -- by the way, the State has put in some financial exhibits but they haven't put in the financial exhibits with respect to your opponents expenditures in 1972. Can you tell us as best you recall what your opponent Mr. Hornsby reported spending in his race against you?

A It was something over $30,000. $35,000.

Q And the State I think has put in your financial exhibit by the way. What do you recall reporting spending?

A It was in the neighborhood of $12,000 to $13,000.

Q Is that reflective of the effort or the other, the efforts associated with the campaign? Or stated another way, was your campaign based in large part upon voluntary help and donated services of interested citizens?

A Yes. I had a great deal of voluntary help and I spent almost all of my personal time in trying to campaign. And I did as much as I could to avoid spending money. Our campaign headquarters was our home and we furnished the telephone and things like that that are not reflected.

Q So that if you had had to, let's say pay for the help that worked in your campaign --

A I couldn't have done it.

Q All right. In connection with your campaign, did you campaign in the black community of Austin?

A Yes, I did. I campaigned a great deal there.

Q What sort of support did you receive?

A I received a small amount of support from the traditional leaders there. But a great deal of support from others in the community. In the actual voting, I think I probably received in the neighborhood of 80 percent of the vote.

Q Let's see, Travis County is what size now?

A Travis County is about 350,000

Q Do you consider yourself a person who is generally sensitive to the needs of the black community of Austin.

A Yes.

Q And the Mexican-American community of Austin?

A Generally.

Q Are you as a Legislator encountering any difficulties in attempting to be responsive to the particularized needs of these minorities in Travis County, and if so, what are they? If not, tell us.

A Yes, in a variety of ways. One thing is that during the campaign I did spend a lot of time in the community, and in so doing sought out a lot of people in the community of various backgrounds. I talked to them at length about things. I spent a lot of time going to meetings, going to dances and things like that.

During the campaign, we had even talked about how

difficult it was to keep up the lines of communication. And most of the people I met during the campaign I had never known before or had no contact with them. And we did even talk about trying to have periodic meetings among the people who had been active in my campaign in the white community, the black community and the Mexican-American community.

And we found that once the campaign was over, our attention was really just diluted and I tended to go back to my own neighborhood which is 14th street, not very far from here.

But still, I have very few contacts with the black community as a part of my daily life. It is much more difficult to keep up.

The second problem I think is a reflection of the Legislative process. And that is simply that as a member of the appropriations, insurance and criminal jurisprudence, I had a great deal of my time required by committee assignments. So that the number of bills I could carry and affectively get through the legislative process were not that many. And it became then a question of priorities, what bills I would actually work on the hardest. And there again, I guess I tended to work on those bills which I felt personally which tended to be more in the area of women's interest. Those which people came to me and asked me to do and which I thought were worthy.

And I found that the black community and the Mexican-American community simply did not tend to come to me as much with their concerns and therefore I did not feel the pressure of their concerns as much as during the time I served.

Q Is it your opinion that the particularized needs or interests of the black or Mexican-American community in the County tend to be submerged in a county wide legislative district?

A I wouldn't say exactly submerged. I would simply say that when you are striving to represent your constituentency of 350,000 that the interests of the blacks do not exert quite the pressure on you as a public official as they would if you only represented 75,000 and the major part of those were black citizens or Mexican-Americans.

Q We really haven't had any testimony about the nature of the Texas Legislature. As you have observed it, what is required in order to get a piece of legislation through this legislature down here?

A Well, I think a lot of people tend to think simply of introducing a bill and somehow it comes up on the floor. And that certainly is not the case. First, you have to go through the process of drafting the legislation which involves working with the Legislative Council, working with the groups that are involved, trying to go back and check with all of

the different groups that might be affected by the legislation and who have an interest in it.

The second part would be actually introducing or getting your bill introduced. Having it referred to a friendly committee if you can at all which involves talking to the Speaker and other people that might have an interest. Once it gets to the Committee, getting a Committee hearing set. And there are so many bills referred early in the session that it becomes of primary importance that your bill be one of the first ones heard. Then the bill might be referred to a sub-committee. And there again you have to present testimony, contact the other members of the sub-committee, the committee, try to get a favorable vote, try to get it out of the committee.

Then it goes into the calender committee. Then you have the problem of getting it out of the calender committee and on to the calender. The same thing there. There are so many bills referred to the calender committee. I think the figures in the last session were something like 1,300 bills introduced in the house and something like 400 bills were passed. This means that even if you get the bill to the calender committee, it still takes a lot of work to get it on the floor.

Then you have to get it passed which once again involves trying to talk to all of the members and knowing

before it comes up what your opposition is and how you can head it off and have amendments that would take care of problems that the members might have.

So, certainly I think it's very difficult. Introducing a bill is easy, getting it passed is very difficult.

Q Does it require a substantial amount of dedication and veracity, if you will, on the part of the Legislator who is sponsoring any piece of legislation to drag it through this legislature?

A Yes, and especially in consideration of all of the other pressures in terms of committee assignments, in terms of giving speeches in your district and in terms of letters and correspondence that you get from the people trying to know what you are voting on and other legislative contacts about their legislation that's in your committee.

You have to have a real dedication regarding the purpose of the bill in order to take the time that is needed in order to get the bill passed.

Q And it takes, I'm assuming in many instances it takes sometimes constituent pressure upon you or upon the legislator for he or she as the case may be to exert that kind of interest and that kind of a drive, is that correct?

A Well, it may be that you have a non-controversial bill and you can do that. Second, you have enough pressure from your comminity that they cause you to put that pressure

or you feel it so strongly yourself that you put the work into it regardless.

Q What is your own opinion as to the desireability of single member districts both in Travis County and elsewhere across the state.

A I am for single member districts. In all honesty I would have to say as an incumbent it would be much easier for me to run in a multi-member district. I have some feeling that might be easier. But if I were not an incumbent, I would feel even more strongly for single member districts.

MR. RICHARDS: Thank you very much.

JUDGE GOLDBERG: Before we start cross examination let's take a 15 minute recess.

(The Court recessed at 3:32 and resumed at 3:50 PM.)

CROSS EXAMINATION,

By Mr. York:

Q Mrs. Weddington, you testified and I for one would concede it to be correct that you are responsive to the needs of the minority community in this county.

A I try hard to be.

Q Your statements about the inability to respond I take it don't go to any of your personal convictions about making such a response, but were couched in terms of an almost

overwhelming workload that a legislator is faced with in this state.

A What I was trying to say is the process makes it almost impossible for a person who doesn't feel strongly or is not a part of that community to really represent the particular interests that a community has.

Q And that's truthfully a difficulty that to one degree or another is faced by even those from single member districts, is it not?

A I'm sorry, I'm not following you.

Q The difficulty of the great amount of hard work that has to be done as a legislator, that workload is not lessened simply because one happens to be elected from a single member district.

A The only difference would be in a single member district you are repsonding to a lesser number of people and therefore particular interests have a much greater impact on a person who knows they have to run again for election to a smaller number of people.

Q In the course or in the way the legislature works, you are there for 140 days every two years under our present constitution. That's true, is it not? I'm sorry, you have to say yes or no.

A I'm sorry. Yes.

Q And the total number of bills introduced at this

last 63rd session on both sides of the floor, both sides of the rotunda was what?

A I'm not sure. I believe in the House alone it totaled something in the neighborhood of 1,300. And there were many more in the Senate. So, several thousand or more.

Q All right. And as you have described it, each one of those, if it is to be thought of as having a chance of success, if we could put it in terms that the lawyers and judges might understand, is somewhat like an individual in a lawsuit. Each one of those, because it is a matter of marshaling witnesses, being ready at a variety of hearings and juggling just a whole lot of different balls at one time.

A That's correct.

Q And this, as you have described it, this process itself particularly during that 140 day session makes it difficult to do much of anything toward responding to the community unless the community comes down to see you about something, isn't that true.

A Well, it's true that you have priorities and you can't do it all. You have to set priorities in your own legislative service. There are three different kinds of bills. One is the one that has no real opposition like abolishing the job of the public weigher in Travis County where the person elected to that office had asked me to introduce a bill that would abolish the job and there wasn't

really any opposition to that.

Second would be those bills where there is enough community or constituency pressure exerted that you put forth the effort required.

Or third, you personally feel it so strongly that you yourself put forth the effort regardless of any other pressures.

Q All right. And many of those pressures that you have described would be present as a member from a single member district down here from say Harris County, working the same rigerous schedule that you work. He would face many of those same problems in responding to a constituency at home that you have just described.

A That's correct, which gives I think importance to the fact of the amount of pressure a particular group can put on a Representative, and how that's diluted when the representative is representing a much larger group of people who may not share that same interest.

Q In terms of contact with an individual legislator in terms of expressing interest in legislation in the legislative process, at least as it is in this State, could you give the Court some idea about how much of that, not pressure, but that input, whatever comes from what we generally think of as the organized lobby, and I don't say that in a bad way, but organized lobby versus more or less individual constituency

kinds of causes.

A Are you really asking about the legislation that a person carries or how they vote?

Q Well, let's take it in two steps. First, the legislation that you would carry or sponsor yourself.

A Okay. The legislation that I sponsored was basically I guess in two catagories. If some group came to me and I thought the group was very important, I would say yes, I will carry it, like the Kidney Bill that I carried.

The second kind of legislation, when I ran I said these are the things that I feel so strongly about and something needs to be done and nobody is doing it, therefore I'll do it. And so I introduced legislation on this. I felt no real pressure from the organized lobby as to the measures that I introduced. And I did not carry any bills for what I would call the organized lobby.

Q Organized lobby sometimes is used in a negative sense in connection with legislation, but those of you who are in the process I'm sure recognize in many instances that there is very beneficial help that comes from some portion of the lobby in terms of getting information about what a particular bill or set of bills mean.

A That's correct.

Q One of the complaints that has been made from time to time as far as the lobby is concerned is that they are not

a particuarly organized kind of lobby for the people in effect, for all of the people, blacks, whites whatever. Is that true?

A I think now there is more than there has been, but is certainly true that groups like banks, savings and loans associations and oil companies and some of the others do have people at the legislature on a regular basis. I was on the insurance committee and we had to hold our meetings in the House Chambers because there were so many people representing insurance companies who attended those hearings. And there were very few people there who were not representing a particular company.

Q So that even a rich white for instance who was against some bill which the insurance lobbist for instance were for, would in many respects suffer the same inability to get to his legislator and express his views as say a poor black in many instances, isn't that true?

A In some respects, that's true. And I think the difference comes from the fact that as a legislator I find in my routine social business daily life contacts that I run into and therefore talk to a lot of people who would be classified as the rich white businessman or white liberals or people in the white community.

I very seldom in my daily life have any contact with what would be characterized as the poor black.

Q All right. Now, you have mentioned the fact that the difficulty of responding to that is partly because of the size of the district that you represent.

A That is true.

Q Indicating that you feel it would be easier to respond to 75,000 people rather than four time 75,000.

A I said of a particular group within the 75,000. They would have greater pressure on me than if they were only a part of the larger community.

Q But doesn't that in a way point out the fact -- for instance, if you made that argument and applied it to Harris County, you would be talking about 18 times -- is that the size of the Harris County delegation?

A I believe it is 17.

Q 17 or 18, much larger than the Travis County delegation in any event?

A What is your question?

Q Isn't the Harris County delegation a much larger delegation?

A Yes, it is larger than Travis County.

Q And whatever problems you would see as being present in Travis County along that line, I assume under your line of thinking that they would be greater from a much larger county?

A You would have to look at the relative size of a

particular interest group versus the size of the entire number of voters who vote in a particular election.

Q Okay. To get to the point that I wanted to make, you would also have to not make a total generalization about what is totally best for the state in terms of single member versus multi-member, but rather you would need to study the particular situation in each county in this state that might have multi-member districts, isn't that a fair statement?

A I think if you are talking about the Court, the Court would have to look to individual circumstances in each legislative district.

Q All right. You mentioned in regard to your race that you had a substantial amount of volunteer help.

A Yes, I did.

Q And that that did not appear in your financial statement or it didn't appear as the amount expended by you to win the Senate.

A That's correct.

Q Others in the county have also had volunteer help, have they not?

A Probably not as much.

Q Okay.

A Yes, everyone who runs for office depends to some extent on volunteers. I was particularly fortunate.

Q Now, you are one-fourth of the Travis County

delegation and you have told us that you believe that you are responsive or want to be responsive to the needs of the minority community of this county. Are there others in the delegation who want to be and are responsive to the needs of the minority community?

A Well, I think anyone who serves and recognizes that every person in the community that's going to vote on you, you try in some way to respond. I think they have the same problems in being as responsive to the particular needs of the black minority community as I do from our general conversations.

Q Without naming names, do you think that all of the delegation is of the same mind as you as wanting to be responsive to the minority community or some or one-third or two-thirds or how would you characterize that?

A I'm really not sure. I would say that the members probably feel a commitment in varying degrees but that all feel some commitment and each of us is subject to different kinds of pressures from the community. Some of us respond more strongly to some pressures than others. But I think all of us share, as I say, the same problems that come from the process, and the fact that we are visitors in certain parts of the city rather than a part of those areas.

MR. YORK: Thank you very much. No further questions.

MR. KORBEL: I have no questions.

JUDGE GOLDBERG: Mrs. Weddington, I want to ask you a question. I'm having a little difficulty phrasing it to myself. I may have difficulty conveying it to you. You have described I think very exquisitely the difficulties of satisfying the particular needs of minority groups in what I would call the political apparatus, the house mechanics. And included in that political apparatus I would add access to you as a representative. I understand your position with respect to that. I want to know if you think if in your opinion as a legislator the particularized needs of the minority groups in Travis County would be better served if they had the opportunity by the division of Travis County into four separate districts, to have those needs articulated, presented and voted upon?

THE WITNESS: Let me answer it in two parts. One would be if you simply divided the community into four parts and for example take the black community as being a part or one-fourth rather than the whole. If I were running in that district, I would be much more aware of the fact that the next time I run I have to go back to that community and show them some positive progress. I feel that to some extent representing the whole, but I am subject to a lot of pressures from other aspects of the community so that their impact on me is diluted.

So I would feel it more strongly if they were a much greater part of the people I am responsible to, the need to speak for them.

The second part I would like to speak to is the question I heard you asking about could I do a better job for them or could someone else maybe do a better job for them. I don't think that that could be answered exactly yes or no. I think I probably can do a better job of representing them than some of the other people I know who have talked about running in this particular district. I know of some other people who happen to be black who are talking about running that I think could really represent them better than I do. In talking to those people, they feel more strongly the particular needs of that community than I personally feel. They have experienced it and I haven't. They are part of that community. They live there. That's the people they know. They know all of the members there and I don't.

So I think there are some people who could run from that district who could represent much better than I do those particularized interests.

JUDGE GOLDBERG: One more question. It's a little more simple. Do you think that the blacks in Travis County, being subjected to the at-large situation have been denied as direct an access to the political process as they

might -- or were they denied it to a greater extent than they would have been if we had single-member districts? That's an opinion.

THE WITNESS: Yes, in my opinion, for two reasons. The first is simply that they have a smaller chance of electing a candidate in an at-large district than they do in a single member. And second, they would have a better chance of having someone who has more personally experienced those problems and could feel a greater dedication. I think part of the reason Representative Ragsdale testified that people come to him is that he often is in, for example, some of the bars in Austin that I do not frequent. And it's easier for people to talk to him in those places than it is for them to come up to my office and talk to me. And so he has the social contact with some of the people in my district that feel more comfortable talking to him than I don't always have and it would be harder for them to talk to me. So I think yes, they would have a better chance of representing a black if it were a single member than an at-large. And second, I think their impact on the person elected would be greater because of their numbers.

JUDGE WOOD: Mrs. Weddington, may I ask you one question. I believe that is pretty well conceded that the black population in your district is about 12 percent.

THE WITNESS: I believe that's correct, Your Honor.

JUDGE WOOD: Now, is the fact that this is a smaller, a somewhat smaller multi-district important and would give an opportunity for greater representation of the ethnic groups than say if we had a multi-district in Houston where you had 22? The contact is closer, is it not?

THE WITNESS: Yes.

JUDGE WOOD: Now, to get down to the basic question that is always asked, when you get to the relatively small multi-member districts such as Travis County and you only have four, which is the better, to have the 12 percent available to all four of these representatives, or would it be better to give them the opportunity to elect only one that would be totally responsible to them, bearing in mind as things now exist in Travis County, and I am addressing myself only to Travis County with this 12 percent and the vast majority of all of them, anyway you cut it, would be Anglo, would not it be better to have all four responsive to this 12 percent because certainly those 12 percent I think could swing elections and do, what is your opinion? I know it's not an easy question.

THE WITNESS: This is just a personal opinion. Okay. I think at the current time, the four of us who are representatives have our attention to for example the black

community diluted by all of the rest of the community so that even though we know that they are there and we do have to pay attention and I certainly campaigned hard for their vote, when you get into the process we still feel that certain dilution, so many other things requiring our attention.

If I served in a district that had say all of the city's blacks in it, I would personally I think probably work much harder for those interests because they would compose a greater percentage of those to whom I had to go back to and answer.

So I think probably in terms of my introducing legislation and my working very hard for it's passage, they would be better off with me in a single member district. As far as whether or not the four of us would vote with them on the final passage, they might be better off in terms of multi-member. But their bills will never get to the point of being voted on by the House at-large unless someone feels a particular responsibility for introducing it and getting it through the entire process.

JUDGE WOOD: Well, aside from the question that is sometimes raised that this might tend to polarize the four single member districts, polarize the one where the Black was elected, isn't it true that there will be some dilution with reference to the interests of the other three legislators where they are now responsive and accessable to

that group.

THE WITNESS: Yes, on the final vote.

JUDGE WOOD: Thank you very much.

JUDGE JUSTICE: Mrs. Weddington, you made reference to the situation as it pertains to the blacks who are in Travis County. Do those same views hold good with reference to the Mexican-American community in Travis County?

THE WITNESS: Yes, Your Honor, I believe they do.

JUDGE JUSTICE: Very well.

JUDGE GOLDBERG: Step down.

THE WITNESS: Thank you.

MR. RICHARDS: One housekeeping matter, Your Honor. I intended to do it earlier and I promised the State we would do it. The Plaintiffs have been unable to develop what we consider to be probative evidence with respect to Hidalgo County and do not intend to contend that we have made a case or are able to make a case with respect to that county.

JUDGE GOLDBERG: All right. Where do we stand now on the witnesses?

MR. KORBEL: I have a live witness, Your Honor, representative Truan from Nueces County.

JUDGE GOLDBERG: How many more live witnesses on your side, on this side of the table, Plaintiffs and

intervenors?

MR. RICHARDS: This is it I suppose and our expert I believe, isn't that right?

MR. KORBEL: Well, we have an expert witness. We are still expecting Representative Moreno will come in. He has had some problems I understand with his connections.

JUDGE GOLDBERG: Anyway, go on with this.

CARLOS F. TRUAN,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Korbel:

<u>By Mr. Korbel:</u>

Q My name is George Korbel representing the Plaintiffs Morano, et al. Would you state your name and address for the record, please.

A My name is Carlos F. Truan. I live in Corpus Christi, Texas, 3821 Marion Street.

Q What is your occupation?

A I am a life insurance agent.

Q Are you also a State Representative?

A And I'm also a State Representative, yes.

Q When were you elected, Representative Truan?

A I was first elected in 1968.

Q And you've been subsequently elected, is that correct?

A I was elected in 1970 and 1972.

Q When you were originally elected in 1968, can you describe the shape of the district from which you were elected?

A Well, our district consisted of two counties, Nueces County and Cleberg County.

Q And Cleberg County would be the Kingsville area, is that correct?

A Yes, Kingsville.

Q And is Kingsville still a part of your district?

A No. By 1972, Cleberg County was taken away from our district. And in fact, the western part of Nueces County was taken away. There are only three representatives now representing the metropolitan area of Corpus Christi which also includes Robstown and Driscoll, a real small community.

Q I see. This morning we heard from Senator Owen former Senator Owen and he testified that Mexican-Americans did have particularized needs, but he was having trouble naming some of them. Can you do better than that?

A Most certainly. I think that it is certainly the mentality of a lot of people who have not experienced poverty, who have not experienced an equal education opportunity that many times are mislead as to what the problems are. The people of our state and the Mexican-American most

especially need to have an educational system that will give each child an opportunity to grow within the system. We have had under the present educational system in Texas a tremendously high drop-out rate. We had an 80 percent drop-out rate among Mexican-Americans in Texas according to the Texas Education Agency. We have one of the worst rates of illiteracy. We have more working poor in Texas than any other state. We have some three to four million adults in Texas that don't have a high school education.

We had until just recently many counties in Texas that did not furnish even food commodity programs. And we now are facing into a food stamp program that I have authored.

Q Can you describe for the Court some of the legislation that you have authored to deal with these problems that you have isolated and explain it.

A Yes. I authored -- when I say I authored, I don't mean to say that I was the only one because I had assistance, but I was the primary author on the Texas Bilingual Education Act.

Q How many co-sponsors were there of that bilingual education act?

A 77 co-sponsors in the House.

Q Okay, go ahead.

A I authored the Texas Adult Education Act. I also authored legislation relating to the testing of students.

That is, children having been placed in classes for the mentally retarded or special education classes on tests that did not measure their intelligence but were essentially oral tests. And children coming to school speaking little or no english failed those language tests and they were placed in classes for the mentally retarded. So we corrected that situation by legislation this year. The legislation now calls for the students to be tested in the language that the child understands.

Q I understand.

A I authored also legislation in the House relating to the definition of total and permanent disability in order for people to qualify for assistance from the State. Our definition of total disability provided that a person had to be totally and permanently disabled and did not provide assistance for people that were temporarily disabled and needed assistance. The bill however died in the Senate.

I passed a bill in the House to provide by statute for a food stamp program in Texas. We only have authorization for a food stamp program by way of a rider in the appropriations bill which is not a statute. And we need in Texas to pass a food stamp law and not have it repealed by just a simple amendment on the floor of the House. The food stamp bill passed the House this session. I was the primary author and it failed in the Senate.

I have authored for three sessions now a bill to create a human relations commission. This session we were able to get the bill out of the committee died in the calendar committee.

Q Who is the chairman of the Calendar Committee?

A The Chairman of the Calendar Committee?

Q Yes, that's correct.

A Representative Carl Parker.

Q Where is he from?

A He is from Jefferson County I believe.

JUDGE GOLDBERG: Port Arthur.

Q (By Mr. Korbel:) What was the problem with the Human Relation Commission Bill? Was there opposition throughout the State House to that bill?

A Well, we had some support in our Human Resources Committee. But anytime you have civil rights legislation or legislation that proposes to assure that people have equal opportunities, you run into a great deal of opposition in the State Legislature.

Q What would this Human Relations Commission Bill have done had it passed?

A The bill would have created a permanent commission consisting of nine members, three of which would have been, would have represented the major groups in the state, three Mexican-Americans, three blacks and three Anglo-Americans.

The commission would have been full time. It would not have been an honorary or part-time commission. It would have had the power to issue cease and desist orders, to subpoena. In effect, to bring about to reality to things that it is assumed people have as a result of the civil right legislation that was passed by the 63rd Congress.

In essence, the commission would have assured that every citizen in our state regardless of race, creed, color, age or sex would have had equal opportunities in employment, education and whatever field of endeavor.

Q How about landlord-tenant relations? Looking at your legislative record, I see you are involved in that also.

A Yes, I'm sorry I failed to mention that. I have authored landlord-tenant legislation since 1971. At that time I introduced a broad code recommended by the American Bar Foundation and the bill got bogged down in the committee. And it was never reported out. This session I devised a landlord-tenant bill into seven different bills, proposing to give landlords and tenants equal rights and responsibilities and remedies. We have no statutary laws in Texas or did not have until this year relating to the relationship between the landlord and the tenants. We have found so many of our people, especially the poor and needy that have to rent that don't have enough money to buy their own property that have been subjected to alot of discriminatory acts simply because

they did not have access to an attorney. And there was no law that proposed a model contract to assure that people have their rights safeguarded by law.

Q. Was in fact this landlord-tenant bill passed?

A. The Landlord-Tenant Legislation failed completely in 1971. It got killed in the judiciary committee in the house. In 1973, this year, the lobby for the apartment owners came in with a compromise measure which incorporated essentially some three of my seven bills and the legislation was passed into law.

Q. In 1971, who was the Chairman of the Judiciary Committee?

A. Representative DeWitt Hale.

Q. Now, with reference to adult education that you talked about, the bill which you introduced regarding adult education, can you describe that just briefly?

A. The adult education bill provides state funding for classes to allow adults who have dropped out of school for one reason or another to come back to the class room free of charge in order to study and get a high school equivalent diploma. The legislature appropriated 4.3 million dollars. The Federal Act that provides for adult education only provides adult basic education for up to the 8th grade. My legislation would continue through high school through the 12th grade. And also

there is a provision that was not funded that would provide for skilled training.

Q. But that was passed, is that correct?

A. Yes, that was passed this year. This is also the third term that I had introduced the bill and it passed into law.

Q. Was Representative Tarbox from Lubbock one of the co-sponsors of that bill?

A. No, he did not sign as a co-sponsor of that bill.

Q. Okay. We have testimony in the record from Dr. Garcia from Nueces County, from Travis Peeler who is the present Democratic Charman and from others that there has been a real polarization, racial or ethnic polarization in the community. Can you comment on that?

A. I believe that the polarization in the community has been brought about in recent years as a result of a Court case commonly referred to as the Cisneros case that has been pending in the Federal Courts for some time where it was found that there was a defacto and a de jure segregation in the Corpus Christi Independent School District. And one of the solutions that was proposed to bring about integration was the matter of transportation. And as we all know over the nation there has been a great deal of opposition to transporting students. An organization came into being in Corpus Christi called the "Concerned Neighbors". and they

were very outspoken with respect to being opposed to any type of transportation. And this has caused a polarization in the community, needless to say.

Q. And has this been along racial and ethnic lines?

A. It has essentially boiled down to that because of the findings of the Court.

Q. There are a couple of other bills I wanted to ask you about. I understand that you voted against the raise in interest rates, is that correct.

A. I'm sorry.

Q. You voted against the raise in interest rates?

A. There has been legislation introduced since I've been in the legislature every year to increase interest rates. These bills are commonly referred to as loan shark bills. I have not only voted against them, I have taken a leading role against them.

Q. Did in fact this year Representative Salem and Representative Hale from Nueces County vote in favor of allowing a raise in interest rates?

A. The original bill allowed for a given amount of rate increase. And the three of us voted against increasing the interest rates at that certain level which was a little more than what eventually was voted in the House. And I voted against increasing it even at the lower amount. And if my memory serves me correctly both of them supported the

interest rate even after it was reduced.

Q. There is another bill that you co-sponsored and that's establishing the University in Corpus Christi, isn't that correct?

A. Yes.

Q. You co-sponsored that with the other members of the Nueces County delegation, isn't that Correct?

A. Yes, our delegation co-authored a bill creating a branch of Texas A&I University in Corpus Christi.

Q. Do you suppose that if the Court ordered single member districts or if single member districts came into being in some way the Nueces County delegation could still get together and pull together on bills which would be good for the common well-being of Nueces County?

A. I don't see any reason why not.

Q. So that if the County was fragmented into single member districts, it really wouldn't affect issues like the University of Corpus Christi which would be of interest to the entire county?

A. I don't see how it could be affected. I think it would allow for representatives like myself that have specific interests in helping people that are less fortunate than others attend to those needs without having to dilute my attention and my time among so many other areas that take away from the specific problems I feel so strongly about that

need to be solved in this state.

Q. Now, until you were elected to the Legislature -- let me rephrase that.As a preface to your introducing the bilingual education act for the State of Texas, did you in fact have to author a bill to repeal the State law which prohibited the speaking of Spanish on school grounds?

A. In 1969, I authored a House Bill 103 which repealed a prohibition that had existed in the statutes since 1917 which prohibited the teaching of any other language except English. Essentially, bilingual education was not allowed. It was a State Law. And the passage of this bill which I introduced and engineered through the Legislature allowed some $3,000,000 in Federal money to come in each year into Texas as a result of the passage of that bill. That's not to be confused with the bill we passed this year.

Q. And the Bilingual Education Bill that you passed this year, I believe 2.7 million dollars was appropriated for bilingual education, is that correct?

A. That's correct.

Q. Is that the amount that was in your original bill that you authored?

A. Our original request was for 6.4 million dollars. The Legislature in it's wisdom appropriated only 2.7 million dollars which will not do as much as we of course could do as a State with the original request by the Texas Education

Agency of 6.4 million dollars.

Q. But you are the author of the Bilingual Education Bill, is that correct?

A. I am the primary author in the House. And Senator Ted Brooks was the author in the Senate. It was Senate Bill 121 which Senator Brooks passed over and I carried the bill in the House. I had introduced House Bills 145 and 146.

Q. Can you tell me why you favor single member districts?

A. I think that's a good question because I think a person that has been in the Legislature as long as I have, having been elected a third term from a multimember district coming here to testify in favor of single member districts is certainly an indication that I feel very strongly. The reason I do is because I see what has happened first of all from the other areas that are represented now by single member districts, namely Dallas County, Harris County and Bexar. I also feel very strongly that by having individual single member districts, a member of the Legislature can best represent the specific needs of the people in his district. There are so many needs of people that are different and varied and there are so many bills that are introduced that cut across all lines of economic, political persuasion religious beliefs or whatever. But in my opinion in order to do an adequate job for the people in Texas and for our constituents, by having

single member districts a member can devote more time to the needs of the people in his district. And people like myself that have a particular philosophy with respect to correcting some social ills can do a much better job without having to worry that you need to be concerned about a much larger area, and it would be very hard to do an adequate job when you dilute your time among so many different interests.

Q. In fact, Representative Truan, when you are a representative from a multi-member district such as Nueces County which includes a substantial number of minorities and an even larger number of Anglos, do you find yourself worried sometimes about the type of legislation you can introduce to alleviate some of the problems you identify in the barrio areas?

A. That's very true. I have tried during my time in the Legislature to correct some inequities, things that have existed for years that I feel should not exist. And yet, there are people that just don't believe in helping other people. There are people that don't believe in helping people that are hungry for example. I believe in providing them with food. There are people that don't believe in providing bilingual education, even though we have an 80 percent dropout rate which is horrible, to say the least. It's my opinion that we need to correct those inequities. And I propose solutions to problems.

And unfortunately, because a person does what he thinks needs to be done, he arouses the opposition of the rest of the community that does not have those particular problems. They have enough food on their tables, their children are monolingual, English speaking children, that both of their parents are English-speaking.

In essence, what I'm saying is a public official in the Legislature can profess to represent all of the people, but essentially he has certain specific solutions to problems that some people are going to be for and some people are going to be against. And anyone that says that they always going to represent all of the needs of all of the prople, in my opinion serving in the Legislature three terms, you just can't possibly do justice because there are certain things that you believe in that somebody else is not going to take the same position.

And I believe that by single member districts you allow a representative to be elected in a small area. He has a better chance of getting to know his constituents. He can carry on a campaign more economically. He doesn't have to worry about having to subject himself to the very expensive television, radio or newspaper campaign. And essentially, you build up more interest and more participation on behalf of the citizens.

Q. I'm going to show you what's been identified as

Plaintiff's Exhibit 43a. Can you describe for the Court what Plaintiff's Exhibits 43a and 43b represent? Have I shown this to you before?

A. I examined this before I was called to testify. That is a map of the city of Corpus Christi.

Q. Yes, that's correct. And can you identify what has been identified here in orange? I am referring to Plaintiff Moreno's Exhibit 43b.

A. That is the so-called corridor I believe is the correct name for it which includes practically all of the Mexican-Americans that live in Corpus Christi.

Q. And in order to speed this up, these red lines represent census tract lines. And in the map underneath, referring to Plaintiff's Exhibit 43a, represents the precincts in Corpus Christi so that we can compare the census tracks with the precincts. Furthermore, there are dots on this map. These are the races run since 1960, is that correct, with the exception of 1970, I believe. The circles with a dot in the middle are the races won. Can you indicate for the Court which precinct most of these candidates, most of the elected candidates live in?

A. From the map there, obviously it's the south side of Corpus Christi and particularly precinct 65. I'm sorry, I'll have to look at the map close to indicate --

Q. Would it be 64?

A. 64 and 65.

Q. Would it be fair to say that most of the candidates have come from the area south of Weber Road?

A. That's correct.

Q. Okay. There is a real cluster of candidates here and I am referring to Plaintiff Moreno Exhibit 43b, in the lower left hand corner of Precinct 65. There is quite a cluster. Can you tell us who lives in that cluster?

A. Among members of the Legislature?

Q. Yes.

A. Both Representatives Hale and Salem.

Q. Do they live literally next door to each other?

A. I think they only have one house separating them.

Q. There is one further matter which I should have taken care of at the beginning. Are you the Chairman of any committees in the State Legislature?

A. Yes, I am the Chairman of the House Human Resources Committee and Vice-Chairman of the Life and Health Insurance Committee.

MR. KORBEL: I have no further questions, Your Honor.

JUDGE WOOD: Mr. Korbel, have you offered this?

MR. KORBEL: Yes, it has been offered and received.

JUDGE WOOD: It is received in evidence. I wanted

to be sure as a housekeeping matter you hadn't forgotten it.

MR. KORBEL: Yes, Your Honor, that's correct.

JUDGE WOOD: Very well.

CROSS EXAMINATION

By Mr. Gladden:

Q. Representative Truan, I believe you testified that there were 77 co-authors to your legislation relative to bilingual education this session?

A. Yes, sir.

Q. I understand one of those was Representative Gib Lewis from Fort Worth, is that correct?

A. That is correct.

Q. Could you rate Mr. Lewis in terms of contribution to the passage of that legislation among those 77? In terms of energy and effort, did he contribute to the passage or did he just co-author it like most of the others?

A. He signed as a co-author and he voted for the bill.

MR. GLADDEN: I believe that's all. Thank you very much.

CROSS EXAMINATION

By Mr. York:

Q. Representative Truan, we are discussing here in this case a variety of sizes of districts as I'm sure you are

aware. This Court is looking at, I suppose, the largest in this nine, Tarrant County, down to two in Hidalgo County. In that spectrum of extremes, we know that the Court has already declared that in Dallas County, which I believe had 18 Representatives, that a single member setup was mandated. At the other end of the extreme, as you know from being in Court today, we have Hidalgo County, where the Plaintiffs have gracefully confessed they can't make a case for single member districts. Would that indicate to you that there is a need to look individually at each county to determine the need for single or multimember districts and that one can't paint the whole state with a broad brush on this question?

A. Well, I can tell you what I feel very strongly about as a result of my being in the Legislature, and that is, that we need to have single member districts throughout the State of Texas in order to have representatives running from an area which is populated in my opinion about the same as any other district. The concept of a single member district comes to bear very strongly, so when you see even in your own reference to Dallas County the difference in representation for the issues that affect people, and as a result of my experience with people that come from single member districts I recommend very strongly that the State as a whole have single member districts.

Q. That's what I want to focus on. I want to ask you if it's not true that there is a difference between what an individual legislator might prefer as a matter of legislative policy for the Legislature to do, there is a vast difference in that than saying that a single member district or a multimember district is somehow an unconstitutional concept.

Now, we have heard I think your view, your own personal view of what ought to be and what you would like to see. I would like to focus on the constitutional issues that are before this court. Do you understand the distinction between the two kinds of questions?

A. Yes.

Q. All right. For instance, I want to read you a statement made by --

MR. KORBEL: Your Honor, I wonder, it seems to me he's not a lawyer --

JUDGE GOLDBERG: I've listened to the question pretty carefully and I don't think he is quizzing him on constitutional law.

Q. (By Mr. York;) I would like to read you a statement made at a former hearing in this case by Counsel for the Mexican-American Legal Defense Education Fund and ask you whether or not you agree with it. I am reading from page 1273 of the record in this case. "Now, if we had an urban

type society..." This is Counsel for the Mexican-American Legal Defense Fund talking. "Now, if we had an urban type society like we have in this country, if we didn't have these tremendous metropolitan areas, city, perhaps a two or three or four multimember district could be justifiable. In fact, the Court I think may be wondering about that, judging from the questions.

"yes, we do have some multimember districts with two or three representatives. Perhaps we may not have yet reached the point population wise in those particular districts to think about giving them single member districts. I certainly don't want to advocate that at this point. But I think I recognize what the Court has in mind when he raises this question, but certainly regardless of what we may conclude as to these two or three multimember district counties I believe the same thing does not apply to one that has 11 representatives as in Bexar County or another one that has 18 as in Dallas County."

Would you generally agree with that statement made by Counsel for Maldef in this case?

MR. KORBEL: Your Honor, may I object to this at this point? We are talking about a statement made in the final argument in the last case and I think it was in response to the Court's question. The question was "Are you questioning all multimember districts at this time?" And I think that

the response which eventually involved there was that we just haven't had time to put everything in it, and we are only talking about the 11 and 18 man districts.

JUDGE GOLDBERG: Well, Mr. Korbel, without getting involved in the technicalities of it, he is asking the witness whether or not in his opinion multimember districts are more of a necessity in smaller counties than in large counties. He can phrase it 22 different ways. And he read this statement. That's what the question is, isn't it?

MR. YORK: I believe that's about it, Judge.

JUDGE GOLDBERG: Let him answer the question.

A. Let me say, I don't have access to all of the testimony that was presented that led up to whoever made that statement on behalf of MALDEF. It is my position and my belief that by having single member districts, whether it is a major metropolitan area like the area of Dallas County or in a smaller area, whether it is Nueces County or the valley, that you are going to have a much better situation with respect to people running in single member districts.

You are asking me to agree or not agree with a particular statement that was made with respect to whatever testimony was put together, which I'm not privy to at this time.

Q. All right. I take it that your statement about single member districts would be true if one could invision

a county that say had two representatives in a multi-member district than if you would invision a county as being say all Anglo and everybody made between $8,000 and $10,000 a year, in other words, a totally homogenous kind of county that did not have any minorities in it, that you still as a philosophical policy matter prefer to see that county have a single member district setup as opposed to a multi-member district.

A. Well, I can see that under the present situation that we have had in Texas, it has deprived a lot of candidates from running that would have taken a great deal of money and support to get elected. I think this is one of the main problems we have had as a result of our not having had single member districts in the various counties, that the representations from there in my opinion has been more down to the specifics of the people in those counties, the areas that are populated. In a county you are saying where there are no minorities, just one big majority vote, I'm not so sure but that single member districts would work there too because we still have people running for office.

Q. That's what I wanted to separate if I could in a way. You don't necessarily say that you are for single member districts because of discrimination problems. That may

be part of it, but you are for it across the board as a philosophical matter, is that true?

A. Well, there are single member districts that could be drawn that would completely dilute a given minority which I would not want to answer your question in the affirmative and then allow you to assume that I would be in favor of a district that completely gerrymanders and does not give minorities an opportunity to have one of their own elected.

Q. Well, what is the make up of Nueces County by ethnic group?

A. It is approximately 44 percent Mexican-American and about four to five percent black.

Q. About 55 percent Anglo or thereabouts?

A. Yes.

Q. Now, is the voter registration in Nueces County like it is in many counties? That is, you find that Mexican-Americans are not registered to vote in the same percentage that Anglos are?

A. I find that Mexican-Americans in my area are probably registered 40 percent or less. I don't have the specific figures.

Q. Generally, the Anglo population, what would their rate be on registration?

A. Judging from the number of people that have voted compared to the number of people registered, I would say that

there are a greater percentage of Anglos that have registered to vote than Mexican-Americans.

Q. And is there a greater percentage within the registered group that goes to the polls, or are they about the same in the two ethnic groups, or do Anglos go more or less or what?

A. I don't want to give you information that I don't have documented because very frankly I've been out of town all of last week and I just got in yesterday and I didn't go through these figures.

Q. I don't want to pressure for a specific figure, but in generalities.

A. In a general sort of way, I would say all things being equal that whatever percentage have registered, the Anglo votes in a larger percentage than the minorities.

Q. Okay. Given those percentages, if the vote were totally polarized, that is, if Anglos always voted for the Anglo candidate, and the Mexican-Americans always vote for Mexican-American candidates in a race in which an Anglo is facing a Mexican-American, the Mexican-American would just never win if it were totally polarized, would he?

A. If it were totally polarized, I guess that would be a safe assumption.

Q. All right. But we know from the fact of your presence on the witness stand as a Representative, Carlos Truan, that there cannot

be total polarization.

A. There is not total polarization. We have a situation in my area that I'm sure is not unique, because of the situation that I told you that started out as a result of the school case. The situation in our area is not good, its not a good situation. There has been polarization since the school case in Corpus Christi. And if you don't mind my telling you, I won by a real large majority my first time. I did not have opposition my second term, 1970. In 1972, last year, I had one opponent who was totally unknown and I won by a very small majority. And the problem is getting greater and its probably going to be hard for me to get re-elected because of the legislation that I have carried like I just indicated.

Q. Well, in your view, is your difficulty this time or your difficulty any time getting re-elected, would you relate it solely to the legislation you carried?

A. Well, I think the situation is not the same throughout. We have situations that have been brought about in my case because of my specific support for legislation that I felt needed to be passed. And I suppose there are people that would be against me regardless of what type of legislation I passed. That's to be expected. But I would think, compared with the other two previous races, it boils down to the type of political philosophy, the legislative program and that has

contributed immensely to the opposition.

Q. You have described that to us earlier as being a situation where this polarization, at least in your view, has sort of been caused by or has followed the Court case going on in Corpus Christi concerning, among other things, the busing of school kids. Right?

A. That's true.

Q. And that controversy came to us fairly recently and hopefully will be over before too long.

A. I hope so.

MR. YORK: I just wanted to get that into the record, Your Honor. I was speaking of course about the controversy in Corpus Christi.

JUDGE GOLDBERG: We understand.

Q. (By Mr. York:) I don't know whether you have been present here during very much of this case, whether you have watched very much of the testimony, but if you have you would have noticed that in each of the counties that we've talked about, the Plaintiffs and the intervenors have been careful to advise the Court as to how many persons from minority groups presently hold office in those counties. And there was a marked lack of those questions by Mr. Korbel to you. So, let me ask you, is the District Clerk of Nueces County a Mexican-American?

A. That's true.

Q. Oscar Soliz?

A. Oscar Soliz.

Q. How is your city Council made up in Corpus Christi?

A. The city Council consists of the Mayor and six councilmen. Three of the Councilmen are Mexican-Americans and one is black.

Q. The other two are Anglo?

A. That's right.

Q. All right. And the population of your county is about 40 percent Mexican-American and you represent 33 and one third percent of the county in terms of you being one third of the delegation, is that right?

A. I guess.

Q. Now, what college is it? Is it Delmar?

A. Delmar College.

Q. Is there a Mexican-American Representative on the Board of Trustees of that college?

A. There is one member of the Board of Regents among -- I don't remember how many.

Q. All right. And Mr. Soliz, when he ran, ran against an Anglo, did he not? The District Clerk?

A. There was an Anglo in the run-off against him.

Q. Right. And Judge Garza, one of the County Court at Law Judges?

A. Judge Garza.

Q. And did he run against a young Anglo lawyer to win that seat, to win that bench?

A. Well, they ran for that position at the same time. Jack Kelso, the lawyer, was not the incumbent. But they did run against each other.

Q. Right. The Mexican-American won over the Anglo, is that right?

A. Judge Garza got elected.

Q. All right. Now, what other offices are held say in the Courthouse by Mexican-Americans?

A. We have the first County Commissioner elected, Solomon Ortiz, after the commissioners drew their own single member districts. And he is the first one. I am the second Mexican-American elected since reconstruction. Besides those you have named, we have Judge Hector Pina, County Court at Law also.

JUDGE WOOD: Are those at-large, those County Court Judges?

THE WITNESS: It's in the whole county. We have a Justice of the Peace that runs in a precinct, Manuel Cantu. It's not the whole county of course.

Q. That precinct in terms of work load, it includes the city of Corpus Christi, does it not?

A. I'm not so sure of that. The other JP whose name I have forgotten seems to have a lot of controversial cases

coming down from the city. So I don't know. Manuel Cantu has the whole city. I don't know their district boundries. We have a Constable who is a Mexican-American but has an English surname of Wilbur. I think that's all.

Q. Okay. Now, DeWitt Hale is one of the members of the delegation, is he not?

A. That's true.

Q. And he is an honorary life-time member of LULAC, is he not?

A. I would assume that if your information shows that.

Q. Well, he swore to it in his deposition. I'm sure you wouldn't have any occasion to dispute that.

A. That's right.

Q. I don't suppose LULAC would have that out as a reward for being unresponsive in the Legislature, would they?

A. Well, Mr. Hale has been a distinguished member of the Legislature for many years.

Q. I know that. I know you have served and worked with him for the time that you've been there.

A. Representative Hale is best known for authoring the Hale-Aiken Act. And it wasn't until 1969 that we repeated the prohibition against bilingual education when I came to the Legislature. And it wasn't until 1973 that we were able to pass the bilingual education act and the adult education act and the bill relating to the testing of students, which

more specifically gets down to the needs of the Mexican-American children.

Q. The reason I asked you that about Mr. Hale, I may have taken the implication wrongly from the question that was asked, but you had some bill which you were interested in which apparently didn't get out of the judiciary committee which Mr. Hale was chairman of, I believe. And Counsel asked you did the bill die in committee, and the next question was who was the Chairman. And you said it was Mr. Hale. Did you mean at all to imply that Mr. Hale had anything to do with the killing of that bill?

A. No, I was answering the question.

Q. I know.

A. The legislation he had reference to was the landlord-tenant legislation. And I'm just answering your question. He happens to be the Chairman of the Committee. That question was asked.

Q. Just the fact that the lawyer put the two together might give that implication to someone who might be listening?

A. I'm going to answer your questions. You can draw your own conclusions.

Q. Okay. The fact is, Mr. Hale who has been a member for a very long time, since 1952, with one gap of maybe several years in the early 60s, has been a pretty responsive member to the needs of the Latin Americans and Mexican-American

community in that area and throughout the State, has he not?

A. Mr. Hale has a very distinguished record serving in the legislature. I think the difference is that when you get to the specific needs of the Mexican-Americans, just like the specific needs of blacks, we can't many times understand those situations unless we have -- and I'm not saying all, but there are certain situations that you can't fully appreciate what is to be physically punished for speaking Spanish even though your parents speak that tongue all the time, unless you go through that.

You can't really appreciate the value of bilingual education unless you have been physically abused for speaking a language that your parents have spoken.

You can't fully appreciate not having any food on the table unless you have had that experience And so if you have an opportunity to push for legislation creating the food stamp program statewide, you are going to push for that specific legislation.

There are things that a well meaning representative such as Representative Hale is, that he's not going to have the same type of drive on those certain things that I have mentioned. And it comes about because if you have a particular background they you know more about a particular situation than I do.

Q. Well, you don't have to be brown to have been

hungry, do you?

A. No.

Q. You don't have to be black to have been poor?

A. That's right.

MR. YORK: Okay, thank you sir.

REDIRECT EXAMINATION

By Mr. Korbel:

Q. How many -- I didn't mean to abuse the Court --

JUDGE GOLDBERG: You didn't abuse the Court. Proceed.

Q. (By MR. Korbel:) How many representatives have been elected since reconstruction in Nueces County who are Mexican-Americans.

A. There are two.

Q. How many Mexican-Americans have been elected county wide since reconstruction that are Mexican-American?

A. As far as I know, the only ones are those that are serving now.

Q. That would be five.

A. Five.

Q. Well, four I suppose because that would exclude Tony Bornillo who is no longer a State Representative.

A. Yes.

EXAMINATION

By Judge Goldberg

Q. If nobody else has any questions I'd like to ask one question. Do you believe that multi-member districts in Nueces County have denied the Mexican-American population in Nueces County access to the electorial machine as distinguished from the legislative apparatus? Do you understand the question?

A. Would you repeat it, please.

Q. All right. Do you believe that multimember districts in Nueces County have denied the Mexican-American population in Nueces County access to the electorial machinery, do people get elected, as distinguished from the legislative apparatus, by which I mean how bills are passed, you vote for them and what you do about them.

A. When you consider that we have had poll tax in the past, that even the $1.75 that it cost, a lot of people did not have that money and could not pay their poll tax and therefore did not have the right or were not certified to vote. When you take that kind of consideration, if I'm following your question, then certainly Mexican-Americans because it is the largest minority group in Nueces County, and because there is such a great deal of poverty that it has indeed denied people access to the electorial process.

EXAMINATION

By Judge Justice:

Q. Do you feel that there has been any carry over from the past because of the lack of participation by Mexican-Americans induced by the poll tax requirement?

A. I think it has carried over in more ways than one because it takes a while for a generation to get involved in community affairs. And the people that were preconditioned to the poll tax and their lack of voting certainly did not train their children about participating in community affairs when even they were not participating. So it has carried over.

JUDGE GOLDBERG: Now, let's see, how do we stand on live witnesses? You have what, Mr. York, tomorrow?

MR. YORK: Your Honor, we have either one--

JUDGE GOLDBERG: You may step down. You are excused.

MR. YORK: We have either one or two, Your Honor.

JUDGE GOLDBERG: Pretty short?

MR. YORK: They will be short. They are of the same general nature that we have had and they should be not more than 45 minutes or an hour on direct and cross.

JUDGE GOLDBERG: And what about you?

MR. KORBEL: We have only one live witness and that would be our expert who is going to sum everything up. Two hours, no longer certainly, Your Honor.

JUDGE GOLDBERG: For both of you?

MR. RICHARDS: All of us.

JUDGE GOLDBERG: And what about you?

MR. GEORGE: We have the same expert.

JUDGE GOLDBERG: In other words, you think a couple of hours you can handle your part of it, and you think an hour and a half you can handle yours. Is that pretty much of it?

MR. YORK: When I say an hour and a half, I'm including direct and cross.

JUDGE WOOD: We should be finished a little after noon tomorrow? Do you think by 12:30 we will be finished?

MR. KORBEL: You, I would think so, Your Honor.

JUDGE WOOD: And then you can start arguing this case at 1:30?

JUDGE GOLDBERG: The Court stands in recess until tomorrow morning at 9:00.

(The Court recessed for the day.)

AUSTIN, TEXAS
DECEMBER 5, 1973
THIRD DAY OF TRIAL

JUDGE GOLDBERG: Good morning. Are we ready for the last heat?

MR. RICHARDS: I had one brief housekeeping matter that I would like to attend to.

JUDGE GOLDBERG: Before you do that, may I ask to say something and get an expression from you? I must have left the courthouse earlier than a lot of you did yesterday afternoon. I understand there is no pressing urge on the part of any of the attorneys in this case to make an oral argument in view of the fact that we're going to have--going to request extensive briefing. No one has any feelings that he has any intonations of immortality that he wants to verbalize, or is that information--am I wrong about that? Do you have any feelings about oral arguments Mr. Korbel?

MR. KORBEL: I don't feel particularly verbal myself, Your Honor. I would just as soon write an extensive posttrial brief.

JUDGE GOLDBERG: Go around

MR. BONNER: I feel the same.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: Affirmative.

JUDGE GOLDBERG: Mr. Richards?

MR. RICHARDS: I certainly defer to the wishes of the majority on that.

MRS. LEVATINO: I hesitate to speak for Mr. York, who likes to speak, but I'm sure he will be willing to waive oral argument.

JUDGE GOLDBERG: Mr. Black?

MR. BLACK: It's all right with me.

JUDGE GOLDBERG: Mr. Gladden?

MR. GLADDEN: That's fine.

JUDGE GOLDBERG: Well, unless Mr. York has a contrary position, and we'll hear from him-- he will be here this morning, will he not, or you will get in touch with him?

MRS. LEVATINO: I'm sure he will waive oral argument.

JUDGE GOLDBERG: We will discuss at the conclusion of the testimony the modus operandi from here on out.
Now let's get on with the heat.

MR. RICHARDS: I have marked and would offer now as Wright Exhibits Nos.29,30, 31, and 32 certain summaries that have been

previously tendered to the State. They are as follows:

Let me just state how they came into being. I had a young law student do certain search for me in the newspapers that were available here, the Austin American Statesman is my 29; the Waco Times Herald is my No.30. The Beaumont Enterprise is No. 31, my exhibit. The Corpus Christi Caller is No.32. The research was simply this. He took the month of October in certain selected years, simply scanned the classified ads to determine the frequency of racial designation with respect to housing and employment, and these constitute the summary of his findings.

We have previously not only shown it to the State but given them the chance to discuss it with him, and we have backup data for the summaries. For example, in Beaumont it was still as late as 1967 that it was still listed as "housing for sale - colored". This is the pattern of the exhibits, and I think that they are self-explanatory.

JUDGE GOLDBERG: Mr. Black?

MR. BLACK: May it please the Court, we are not objecting to these on any grounds of authenticity. We're admitting that these

things appeared in the paper as set forth. We do, however, object to them for the hearsay content, and even more seriously, we object to them as being completely remote from any issue in the case and irrelevant.

JUDGE GOLDBERG: We will accept them as being authentic, and the Court will make up its mind as to the competency or relevancy.

MR. RICHARDS: We do not deem them to be heresay, because we are prepared to tender witnesses to say that this is what the newspapers said.

JUDGE GOLDBERG: He says that he agrees that that's what the newspaper said on the date and that the summary is accurate. He doubts that it is competent, so I don't think that this would be a matter of serious dispute.

MR. RICHARDS: Thank you, Your Honor.

JUDGE GOLDBERG: Now, who is up next?

MR. KORBEL: George Korbel representing the Plaintiffs Moreno, et al.

Your Honor, I would like to say one thing about these exhibits which Mr. Richards has just offered. The fact that we do not have the same study for Lubbock and El Paso doesn't mean that

that type thing doesn't exist in the papers. They just weren't available---.

JUDGE GOLDBERG: Mr. Korbel, that's pure argument partly of a testimonial nature.

MR. RICHARDS: Well, Your Honor, please let me say that the El Paso papers were not available, and that's why we did not have the research there.

JUDGE GOLDBERG: You could probably say that about 22.000 others.

MR. RICHARDS: I'm sorry, Your Honor.

JUDGE JUSTICE: Who will be your next witness?

MR. RICHARDS: Charles Cotrell. He's our expert, Your Honor.

JUDGE GOLDBERG: It looks like you've got some arms with you.

MR. COTRELL: It's a cook's tour.

MR. KORBEL: In the interest of brevity, Your Honor, this is the same Dr. Charles Cotrell who testified in the last hearing, and I think we can stipulate with the State that his qualifications are the same as they were before.

JUDGE GOLDBERG: Maybe you better.

JUDGE JUSTICE: Well, would you remind us of his qualifications?

MR. KORBEL: Yes, Your Honor. His qualifications are set out in Plaintiffs' Exhibit Wright, et al, No. 4, Page 820.

Generally, he has a Ph.D. in Political Science and I think at least eight years of teaching experience. He is teaching political science at St. Mary's University. He testified in the last hearing.

JUDGE JUSTICE: All right, proceed.

DR. CHARLES COTRELL,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. KORBEL:

Q Dr. Cotrell, were you employed by Counsel for the Plaintiffs to testify in their behalf?

A Yes, I was.

JUDGE GOLDBERG: I didn't hear the question.

Q Were you employed by the Counsels for the Plaintiffs to testify in behalf of the Plaintiffs in this cause?

A Yes, I was.

Q When were you so employed?

A In September of this year.

Q Can you describe the conditions of that employment?

A I was asked to conduct a study that would involve election data and other socio-economic data in the counties which are at issue in this case.

Q Are you being paid to appear as an expert witness today?

A Yes, I am.

Q How much is that, Dr. Cotrell?

A I think the total fee involved is roughly $2,000.00.

Q And for that fee of $2,000.00 what did we ask you to do to prepare yourself?

A I was asked to travel to each of the counties involved. I was asked to prepare an electoral analysis of most of the counties involved. I was asked to interview people. I was asked to examine the depositions. I was asked to reach a set of conclusions concerning multi-member districts and the way they operate in the counties.

Q Specifically, Dr. Cotrell, how many days have you spent in preparing yourself to testify?

A I would think there would be about 18 days.

Q Eighteen full days?

A Eighteen to twenty days, yes.

Q Just as a broad general overview before we start our Cook's tour, Dr. Cotrell, do you see any similarities between the districts that you visited?

A Yes, I do. There are similarities in population concentrations. There is a wide diversity, however, in geography, topography and so on, and I have reached certain conclusions about similarities of legal frameworks in those counties.

Q Can you state those conclusions before we start?

A The first conclusion that I reached was that multi-member districts in most cases tend to work to submerge, cancel or otherwise minimize the participation and effectiveness of minority voting strength. Further, I found that in different historical and demographic situations in these counties, keeping in mind we have a very broad spectrum here involved, multi-member districts tend to work to disenfranchise, to limit participation and otherwise submerge minority voting strength in different ways in this context.

Another conclusion I have reached is that as

a legal framework multi-member districts set up an opportunity wherein racial polarization, as expressed in voting, is increased, and another conclusion I reached is that in certain counties multi-member districts per se seem not to submerge the strength and participation rates of minority groups.

Q Well, specifically, are you referring to one county, which is a part of the multi-member districts before this Court?

A Yes.

Q And which county is that?

A That's Hidalgo, and, finally, I reached the conclusion that multi-member districts in certain counties tend to dilute the effectiveness of the legislative representation of particular needs. I would add there -- of minority groups -- I would add there parenthetically it depends on the degree of racial polarization that exists in the county.

Q Dr. Cotrell, have you read all the depositions which now have been offered into evidence?

A I have examined all the depositions, yes.

Q Dr. Cotrell, have you sat through the entire testimony in this trial?

A Yes, I have.

MR. KORBEL: Starting with Lubbock, Your Honor.

Q Just a few preliminary questions with respect to Lubbock.

Before you went to Lubbock, could you describe the studies that you had done to adequately prepare yourself to identify Lubbock County?

A The electoral analysis -- I had under my direction all the state legislative elections from Reconstruction to the present year examined. Concerning other electoral analyses, there was select analysis of elections in the county and in the city and for state legislative posts from 1960 to the present. I also interviewed a number of participants in the political processes of Lubbock. Of course, I have read depositions from some of the participants of the political processes in Lubbock. I gave a cursory examination of the school case, U. S. A. versus Lubbock, which found de jure segregation in the Lubbock Independent School District, and I also interviewed and spoke with and examined studies prepared by Dr. Frank Biard, Political Science Department, Texas Tech University.

Q Did you also have a chance to examine the preliminary draft of what has been identified as Moreno Exhibit 41 -- Lubbock, which is a study, ethnic, economic and educational study of Lubbock?

A Yes, I did.

Q Had you been to Lubbock before you did this

study?

A Yes, I have been to Lubbock.

Q How long did you spend in Lubbock doing these studies and interviewing these people?

A Two days.

Q Can you describe what you did in Lubbock itself when you were there?

A The actual time in Lubbock was spent a number of ways. One was a more comprehensive physical exposure to Lubbock than one would get from, as it were, recreationally visiting Lubbock. An amount of time was spent in interviews, and an amount of time was spent in examining such things -- a cursory examination of such things as housing, area of concentrated minority population, as opposed to so-called white flight areas, housing and so on.

Q Did you actually drive the City of Lubbock and get a first-hand view of the city itself and the demographic features of the city?

A Yes, I have a certain physical sense about the City. I actually drove the city.

Q You said you had access to studies done by Dr. Biard. Is he Professor of Political Science at Texas Tech?

A Yes.

Q Would you describe to the Court what they

contain?

A Dr. Biard has conducted a number of attitudinal studies concerning the Mexican-American and Anglo population in Lubbock County. One of the studies which I believe is in evidence before this Court is a study concerning Mexican-American self-image. This is a study prepared for presentation, I believe, at the Rocky Mountain Political Science Association in April of 1973.

Q Can you briefly summarize that study?

A Well, Dr. Biard found what other attitudinal studies concerning Mexican-American populations in Texas and the Southwest has found. He found in the case of the Lubbock Mexican-American that the Lubbock Mexican-American had a very low sense of self-esteem. The Lubbock Mexican-American had a definite sense of inferiority.

Q Now, you are referring, I think, for the record, to Plaintiffs' Exhibit Moreno 26-Lubbock. Is that correct?

A Yes.

Q Was there also another preliminary study that you had access to by Dr. Biard?

A Yes. This study is not published. I do have with me a compilation of the results. It is a study for our purposes here of the Anglo attitudinal pattern concerning Mexican-American in Lubbock. It demonstrated for one thing

that number upward of 50 percent of the Anglo population hold attitudes that could be termed prejudicial vis-a-vis the Mexican-American population.

For example, such items as lower ambition, that is, Anglos consider Mexican-Americans in Lubbock to have lower ambition. They consider them to be inferior in other ways, such as a number of popular ethnic slurs, stereotypes, one that associated laziness, too emotional and so on.

Q Would it be about half of the Anglo population that hold those views?

A Let me state that more clearly. On some of the items, prejudicial items, the percentages ranged up to 50 percent. In most of those cases, however, there were in excess of 30 percent of the Anglo population held these views vis-a-vis Mexican-Americans.

Q In that preliminary study that you have access to did he have some electoral data also, some studies on elections?

A Yes, he did. What he found has been verified in other parts of Texas concerning participation rates and so on. What Dr. Biard found was that one might expect Mexican-Americans tend to be more alienated concerning the political and social system. Mexican-Americans tend to be more disaffected and so on.

Q Do you also have a part of that study which

included the views of Anglos toward the possibility of a Mexican-American running for the State House of Representatives?

A Yes. Suffice it to say that the Anglo responses were such that you had upwards of 25 and 30 percent who expressed in political or voting categories prejudicial attitudes toward Mexican candidates.

Q And are you familiar with the deposition of Madison Sauder taken in Lubbock County?

A Yes.

Q And in that deposition, does he confirm that survey research that approximately 25 percent of the Anglos tend to be prejudiced or---?

A Yes, sir.

Q ---tend to be very -- well, go ahead.

A This is the Democratic County Chairman, and the Democratic County Chairman's estimate is that 25 percent of the Anglo population holds prejudicial views toward Mexican-Americans in Lubbock County. This was verified by the Biard study.

Q What else can you tell us about Lubbock? For example, what participation have Mexican-Americans had in politics in Lubbock County?

A Participatory rates of Mexican-Americans in Lubbock are extremely low. There has been to my knowledge

no Mexican-American who has ever run for a state legislative office. Mexican-Americans hold practically no offices. There has never been a Mexican-American who has won a county-wide election in Lubbock County.

Q As a matter of fact, no Mexican-American has ever run for a county-wide race, I don't think?

A That's true.

Q I would also suggest that the case of Lubbock is one where you have a minority population that might be clearly 15 or 20 years behind because of any number of factors, historical racism and so on, in the county, 15 or 20 years behind parts of minority populations, particpation rates and awareness in other parts of Texas. This is called in social science terms a traditional culture. It is a passive kind of participation role.

Basically, Dr. Cotrell, what is the percentage breakdown on Mexican-American, black and Anglo in Lubbock County?

A I think the rough breakdown is 16 percent Mexican-American and 7 percent black.

Q Has a black ever been elected to political office in Lubbock County?

A No.

Q I'm sorry, Doctor.

A There is one black School Board member, I

think, elected in 1968 or '70.

Q And did the Biard study indicate that among the Anglos the least interest was shown in School Board races in Lubbock County? Is that correct?

A That's true, and electoral data bears that out.

Q What is the condition educationally of the Mexican-Americans in Lubbock County?

Give the Court a few mintues on that.

A My own opinion was that it was atrocious. You have, I think, in testimony before this Court the fantastic dropout rate. You have, of course, the school segregation case and the finding of de jure segregation in the Lubbock Independent School District, but in one of the depositions, as I recall, there is a startling item to me, and that is that from the Lubbock Independent School District graduates who were Mexican-American only seven have graduated from the local university, Texas Tech, and this is, I believe, from a counselor at Texas Tech and, secondly, I believe that of the graduates who are Mexican-American in the Lubbock Independent School District there are only 20 who have achieved college degrees elsewhere in the nation.

Q Do you know for a fact that the Director of Bilingual Education speaks no Spanish in the Lubbock

Independent School District?

A Yes, I do.

Q Did you identify what has been termed as white flight in Lubbock?

A Yes, like nearly all metropolitan areas in Texas, you have a clearly definable concentrated black and Mexican-American population. It is in Lubbock classically across the tracks, and then you have a very little movement outside of that area, and then you have in what would be the leftward portion of that map, upper left---.

Q For the purpose of the record, you're referring to the Moreno Exhibit 47(b)-Lubbock and 47(a)-Lubbock?

A Yes. You have white census tracts there almost 100 percent white, and then you have the so-called salt and pepper areas just outside the orange area.

Q For the purpose of the record the orange area represents the minority areas in the county. Is that correct?

A Yes.

Q And the white areas that you're talking about would be those toward the south and toward the left of Plaintiffs' Exhibit 47(b). Is that correct?

A Yes.

Q For the purpose of the record, and I might add that the dots indicate races run. Is that correct, on

the map?

A State legislative races run and candidates for those races.

Q Were there any candidates who offered themselves for election since 1960, which is indicated by the dots on the map, who lived within the orange or Mexican-American and black areas?

A No.

Q What percentage of the population is minority within the orange areas, do you know that, Dr. Cotrell?

A What percentage is minority?

Q Yes.

A Between 75 and 80 percent. It may even be higher than that.

Q According to the census?

A According to the census.

Q Would you say that because of white flight it would be substantially more than that?

A Yes. In some of those census tracts it is reaching 100 percent.

Q When you drove around and observed the population, you saw very few whites in those areas, is that correct?

A That's true, but mainly the census data demonstrates that.

Q Can you compare the condition of the minorities in Lubbock County with the minorities in Bexar County?

A I don't think there is any kind of comparison here at all. The Lubbock County minority populations are as I have tried to describe in a traditional posture. That is, they are almost totally quiescent. There is apparently a great deal of hopelessness and despair, a great deal of alienation reflected in the attitude studies we talked about. There is very little hope as far as any kind of real participation rate and participation in politics. You find, for example, very few active minority members in politics in Lubbock County.

Q As a matter of fact, Dr. Cotrell, isn't it a fact that the School Board and the City Council and State Legislative elections are all held under the multi-member district system?

A Well, the at-large system?

Q Yes.

A Yes.

Q Dr. Cotrell, based upon your analysis of the election returns in Lubbock County, have you reached any conclusions?

A Yes, I have, and that is that the multi-member district, as a legal framework in Lubbock County,

continues to discriminate against minorities in voting participation and continues to submerge, dilute and otherwise cancel their strength and effectiveness.

Q Specifically, Dr. Cotrell, do Mexican-Americans tend to vote for Mexican-Americans, rather than Anglos? Is that what your studies developed?

A Well, they confirm a pattern that I found in electoral analysis in most of these counties, and that is Mexican-American voters tend to overwhelmingly, sometimes by eight or nine-to-one in Lubbock County identify with Mexican-American candidates.

Secondly, Anglo voters inversely tend to vote against Mexican-Americans when they are in races.

JUDGE JUSTICE: Are you speaking about state-wide races, because you've said that there have been no local races involving Mexican-Americans.

THE WITNESS: No, Your Honor, we had to look at other races, county-wide races and county commissioners' races and -- particularly, county commissioners' races.

Q Specifically, Dr. Cotrell, did you examine two county commissioners' races?

A Yes.

Q You're basing your opinion on these two

county commissioners' races?

A Yes.

Q In which Mexican-Americans ran?

A Because there was no county-wide candidate.

Q Were the Mexican-Americans elected to those county commissioners' posts?

A No, they were not.

Q Go ahead.

A Well, that in Lubbock County I think I have already said that Mexican-Americans tend to vote for Mexican-American candidates, and, finally, I suppose one could say that Mexican-Americans in Lubbock County when there is no Mexican-American in the race tend to vote for the most popular Anglo candidate.

Q How about the Anglo areas? How do they vote, Dr. Cotrell?

A The Anglo areas voted overwhelmingly in -- let's take the Jacoba, Pauline Jacoba race.

Q She ran for County Commissioner, for purposes of the record, in 1970?

A '70, correct, uh-huh.

Q Referring now to Exhibit 47(b), that refers to the left-hand upper part of the map?

A Yes, it is.

Q Her district is that part of the district

running down 19th Street and Avenue Q, I should say, this area (indicating), so she had, it appears, two census tracts which would be minority. Is that correct?

A That's true, and the percentage of support there bear out that Mexican-Americans overwhelmingly supported her. In one particular area involved in that race in Shallow Water, for example -- I think that's in---.

Q Now, would Shallow Water show on the map?

A No, it would not.

Q Shallow Water would be in the upper left-hand corner if the map were larger. Is that correct?

A Yes.

Q Shallow Water is a rural precinct?

A Yes, it is. They had an attempt there, I understand -- she did make the runoff, and there was an attempt there, the use of a handbill to identify her as a militant La Raza type, an active person in Mexican-American affairs and so on, and the discrepancy between the general election and the runoff is really amazing in that particular area and then, of course, the voting trends hold in the white areas.

JUDGE GOLDBERG: Excuse me. Did I understand you to say that no Mexican-American had offered himself for county commissioner in a precinct which is predominantly Mexican-American?

[574]

THE WITNESS: No, Your Honor, I think that there have been two Mexican-American candidates, according to my records, who have offered themselves for office in that precinct.

JUDGE GOLDBERG: Were they defeated?

THE WITNESS: Both defeated, yes.

JUDGE GOLDBERG: Although you vote by precinct in the county commissioners' race?

THE WITNESS: Yes, the percentage there is still in favor of the Anglo candidate or the Anglo voting population, but this is the closest -- what I am suggesting is this is the closest a Mexican-American has come to running, and this is the only kind of evidence that could be demonstrated.

JUDGE GOLDBERG: Maybe I don't follow you. You lost me. Did you not tell us that in the orange area at least 80 percent were minority?

THE WITNESS: Yes.

JUDGE GOLDBERG: Well, does the orange area have one or more of these county commissioner precincts?

THE WITNESS: No, the orange area, none of the county commissioner precincts are specifically in that orange area. In fact, there was an allegation made that any time a Mexican-American runs and

[575]

runs well, that the precinct lines are changed.

JUDGE GOLDBERG: You mean that the four county commissioners in Lubbock County, three come from truly rural areas, and the one -- the map we're looking at is one county commissioner's precinct?

MR. KORBEL: No, Your Honor. Maybe I can explain the map, Your Honor, for the purpose of the record.

The typical pie-shaped county commissioner setup is here, and Pauline Jacoba lived in this precinct, which included a substantially minority area, a substantial population there. There's another county commissioner's precinct, which includes this much in the rural areas (indicating), and there's another county commissioner's precinct which includes another part of the minority area and rural area, and the fourth county commissioner's precinct, which includes the rural left-hand quadrant of this map and more rural areas, so in no one of the---.

JUDGE GOLDBERG: You mean the minority areas have been split into three parts?

MR. KORBEL: Yes, Your Honor.

JUDGE GOLDBERG: All right, let's put it on

the record like that then. That will make it simple for me. I'm so simple-minded.

MR. KORBEL: I'm sorry, Your Honor.

BY MR. KORBEL:

Q So she ran from the county commissioner's precinct which contains a substantial amount of Mexican-American votes. Is that correct?

A Yes.

Q Were there, in fact, three boxes in that county commissioner's precinct which were substantially Mexican-American?

A Yes, there were.

Q How did she do in those boxes?

A Well, the voting percentages in those boxes, as I recall -- I have the figures here, but they were upwards of seven and eight and nine-to-one in her favor.

Q How did she do in the substantially smaller minority rural sections of that county commissioner precinct?

A She was defeated soundly.

Q Specifically, Shallow Water now.

A The Shallow Water returns I have. Would you like me to refer to them?

Q Just generally tell us, I think.

A Well, as I said, she ran in the first

election there, the first election she ran rather well. She ran moderately well, but in the runoff election not only was a tremendous amount of interest generated in that election -- I'm suggesting that the awareness of a Mexican-American being elected became known. We had the handbill.

Q The handbill was passed out between the general electibn and the runoff (sic)?

A Yes, and she was defeated disastrously in Shallow Water.

Q I'm sorry. I mean the primary election and the runoff.

Do you have any knowledge of the cost of running a campaign in Lubbock County?

A I think that the cost is relatively small compared to other multi-member districts. I would think it is in the range of five or six thousand but, of course, you had had incumbents there and gaining reelection is no real problem.

Q The record indicates that only one Mexican-American has ever been elected to a county office in Lubbock County. Isn't that correct, Dr. Cotrell?

A Yes.

JUDGE JUSTICE: What was the office and when was it?

Q One Mexican-American was elected to a post

of what, Dr. Cotrell?

A I think that was Constable's Office.

Q Yes.

A And the election was -- I have that, Your Honor. I think it was in mid 60's or late 60's.

JUDGE JUSTICE: This was a precinct election?

THE WITNESS: Yes. Again, Your Honor, we refer to these elections, because the larger county-wide races have no evidence.

JUDGE WOOD: Well, that's important. Is it a rural, small precinct, Constable's Precinct, or is it the one that encompasses the whole City of Lubbock?

THE WITNESS: No, it encompasses part of the city and a rural area, also.

JUDGE WOOD: And what is the population of that Constable Precinct?

THE WITNESS: I don't know, Your Honor. I would have to check.

JUDGE WOOD: About how many, would you say, just an estimate?

THE WITNESS: I have it in the voting returns. Just a moment.

JUDGE WOOD: I don't mean the voting strength.

I mean the population strength.

MR. KORBEL: There's no way to tell that. These things cut across census lines, and there's no way to tell.

JUDGE WOOD: You mean there's no way to tell how many voters there are in a constable's precinct?

MR. KORBEL: He can testify to voters.

JUDGE WOOD: There's no way to testify what the population is in a constable's precinct? Is that what you're telling the Court?

MR. KORBEL: Yes, sir.

JUDGE WOOD: All right. I'll ask him to give me an estimate, if he knows.

Is it 75,000 or 100,000?

THE WITNESS: No, I would estimate it to be -- gee, I would estimate it to be 25 to 30,000.

JUDGE WOOD: All right, and what is the population of each county commissioner's precinct that the Mexican-American ran in one of them? What is the population of that?

THE WITNESS: I would again have to give you an estimate, Your Honor.

JUDGE WOOD: All right.

THE WITNESS: I would say roughly 35 to 40,000. These are estimates, though, Your Honor.

JUDGE WOOD: And I assume that the population in all of the other four county commissioners' precincts are about equal?

THE WITNESS: I would assume so, sir.

JUDGE WOOD: All right.

Bear in mind -- you understand the representative districts are 75,000?

THE WITNESS: Yes, Your Honor. That would be four -- that's what I was using as a basis there.

JUDGE WOOD: How is the fact that -- how is this going to help if the commissioners' precincts are 35,000, and that's 75? That's 140,000. How are you going to cut that so it's going to give them better representation than they have now if you have got it down as small as 35,000 or 30,000, the single-member districts, and the smaller it gets the better their representation would be, and they still can't make it? How is it going to help us to make single-member districts? How is it going to help?

THE WITNESS: Yes, Your Honor. Well, in county commissioners' precincts normally you would find that this would be an area where it is a single-member distrist, and your minority people would run better, but, of course, in any single-

member district, although it may have tremendous advantages over a multi-member district, there is a question of gerrymandering, and I suggested in at least some of our interviews they said that the county commissioners' precincts whenever a Mexican-American did well, the census tracts and so on were changed.

JUDGE WOOD: If you gerrymandered it, which apparently the Supreme Court permits -- if you gerrymandered it in a way to favor the Mexican-American population existing in Lubbock County, would that necessarily insure the election of a Mexican-American?

THE WITNESS: Would it necessarily insure the election of a Mexican-American?

JUDGE WOOD: First, answer that question, and then I am going to ask you, or would it help.

THE WITNESS: No, the question is whether it would enhance the voting strength of Mexican-American voters and black voters in Lubbock County, and then I would have to answer yes, most emphatically.

JUDGE WOOD: All right, why do you say that?

THE WITNESS: Then you could draw a district

not only a county commissioner's precinct, a district, but you could also draw a state legislative district wherein the minority voting strength would be greatly enhanced in the sense that a legislator or county commissioner running with that constituency would have to answer---.

JUDGE WOOD: Well, of the total population of 120,000 people in the county, how many are Mexican-American?

THE WITNESS: Well, 16 percent of the population roughly is Mexican-American. I think that the total population of Lubbock or the county is roughly 149,000---.

JUDGE WOOD: Could you gerrymander this to put all Mexican-Americans in one precinct -- in one legislative single-member district?

THE WITNESS: You're asking me a feasibility question, yes, sir, but a line could be drawn wherein nearly all, as we have demonstrated by our concentration of your Mexican-American and black population, would be in one.

JUDGE WOOD: All right, that would be

38,000, wouldn't it, roughly?

THE WITNESS: Yes.

JUDGE WOOD: All right, very well.

MR. KORBEL: Your Honor, the deposition of Madison Sauder, a witness for the State, indicates that if a line was drawn according to the plan which was offered, that 99 percent of the black population and 99 percent of the Mexican-American population would be in one district.

JUDGE WOOD: And how many voters of the 75,000 would that give the Mexican-American?

MR. KORBEL: I think they would have approximately 40 percent of that district, Your Honor.

JUDGE WOOD: Forty percent?

MR. KORBEL: Yes, Your Honor.

JUDGE WOOD: But they still wouldn't have a majority?

MR. KORBEL: No, Your Honor, but I think what this case is about is giving the Mexican-American and the black and other minorities a chance to participate, rather than a chance to insure an election.

JUDGE WOOD: I think it is a question of showing that they have been discriminated against, isn't it?

MR. KORBEL: Yes, Your Honor.

JUDGE WOOD: In such a way as to deprive them of their right to participate?

MR. KORBEL: Yes, Your Honor.

JUDGE WOOD: All right, very well.

BY MR. KORBEL:

Q Now, you have read all the depositions in this case, and you have sat through the evidence, and you have examined the electoral data. Do you have an opinion as to whether or not a history of official racial discrimination has touched the lives of the Mexican-Americans and blacks to participate in the electoral process?

A Most emphatically.

Q And what is that opinion?

A Racism has affected participation rates and is one of the main obstacles to overcoming the rather passive and quiescent roles that Mexican-Americans and blacks play in Lubbock County. Of the counties I observed Lubbock, indeed, in terms of hope for the future and participation was definitely one of the worst.

JUDGE GOLDBERG: I just want to be sure that we're addressing ourselves to what might be the crucial issues.

MR. KORBEL: Yes, Your Honor.

JUDGE GOLDBERG: I'm going to ask this witness what I have tried to ask others in different ways.

Do you believe that multi-member districts in Lubbock County has denied the minority groups, particularly Mexican-American, in Lubbock County access to the electoral machine, as distinguished from the legislative apparatus or a legislative forum or changes that would eliminate the patterns of discrimination that you have told us about?

THE WITNESS: Yes, Your Honor, I do. The multi-member district works in Lubbock County to set up a situation wherein not only is it a question, as Judge Wood pointed out, of a difficulty in sheer percentages of electing a Mexican-American or black representative, but the multi-member district acts to discourage not only people seeking the candidacy, but that, in turn, acts to discourage people from even participating in that level of politics, voting and so on.

JUDGE GOLDBERG: When the Supreme Court speaks of multi-member districts -- you're not a lawyer, but I'm still going to presume that you understand my question -- when the Supreme Court speaks of the fact or speaks to the conclusion that

multi-member districts are not per se unconstitutional, what you are saying, what your opinion is, that the actual facts of the voting itself show that there is a per se unconstitutionality involved, even though there is no organization that bars them, even though the poll tax does not bar them. It is the feeling of frustration, the idea that they're not going to get anywhere. That is the thing that makes the multi-member district bad, pernicious.

THE WITNESS: Your Honor, may I respond to that?

JUDGE GOLDBERG: Any way you want.

THE WITNESS: I think the Supreme -- when I started this study, I wasn't sure that the Supreme Court finding that multi-member districts per se were not unconstitutional -- I wasn't sure that the Supreme Court -- that that was a sound view, but given the history of official racism, I'm suggesting that in Lubbock County the multi-member district as a legal framework acts to continue to subvert the participation rates and acts to continue to subvert the actual strength of racial minorities in voting.

JUDGE GOLDBERG: Thank you.

JUDGE WOOD: Well, do you feel that the single-member district in a small county, such as Lubbock, comparatively speaking, when we're dealing with Tarrant County of 600 is a panacea for all ills that would eliminate discrimination?

THE WITNESS: No, Your Honor.

JUDGE WOOD: Couldn't there be discrimination in a single-member district of 75,000 just as easily as there could in a single-member district (sic) with four people running with 150,000? Why do you say that it is going to correct those deplorable conditions necessarily, just the magic of the single-member district?

THE WITNESS: I don't believe I have said by any means that a single-member district remedy is a panacea, nor have I suggested that the multi-member district is the only cause. In fact, it is my understanding that it is an aggregate of factors which work in different ways, which the multi-member district tends to reinforce, and the multi-member district tends to in some cases inflame. That is one response.

The second response is -- and I appreciate the question of size -- people who don't pay attention to scale are missing, I think, a lot in

American politics, but the fact is that in Lubbock County, as in other rural counties that we will see or deal with today, I have found that because of this traditional political posture and low participation and so on and the sort of hopelessness of it all, that the multi-member district in a sense can come down as hard, if not harder, in its effects there than it does in a larger district.

JUDGE WOOD: Well, in some instances where you are governed by a 75,000 population as a criteria, in order to help remedy the situation, you would have to cut these voting districts down to five or ten thousand people, wouldn't you, if it is going to effectively give any aid to the problem that we're trying to eliminate?

THE WITNESS: Your Honor, there's a distinction here, I believe, that has to be made. You have made the distinction of size.

JUDGE WOOD: Well, that's only one distinction.

THE WITNESS: Yes, Your Honor.

JUDGE WOOD: There are other factors, but address ourselves to that factor.

THE WITNESS: You have carried the small

unit argument to its logical conclusion, one-to-one, and that's impossible on a representative system. That's conceded, but what remedy does a single-member district give that a multi-member district does not, all questions of size aside?

The single-member district under the so-called ideal 75,000 in Texas affords at least the opportunity for a Legislature to establish general communities of representation of general communities within a community, and what we have seen here is that multi-member district in many counties tends to represent one "community" but really, in effect, it is one specific ethnic or racial segment of that community. That's the difference, and I think it is a crucial difference, Your Honor.

JUDGE WOOD: All right, that is a crucial difference. That, I will concede. Then you are actually saying here that you -- and I think in fairness to everybody -- you disagree with the Supreme Court. You feel like multi-member districts are not good?

THE WITNESS: No, Your Honor, I meant---.

JUDGE WOOD: When would you find that a multi-member district is good? Under what

circumstances or conditions in the State of Texas under the proscription of the Supreme Court would you find in your opinion a multi-member district advantageous?

THE WITNESS: Your Honor, I have tried to connect multi-member districts to certain population and historical situations. The historic situation in Texas is racism, and what remains for this Court to find is whether there is a question of official racism in the counties involved.

I would find a multi-member district unobjectionable in a situation where one can find little or no racism, where there can be found an active viable two-party, maybe three, maybe multi-party system, and a situation where one could find a degree of equity and a degree of equality -- a degree, mind you -- in socio-economic terms, but I am suggesting, Your Honor, that in only few instances do the multi-member districts in Texas combine -- well, I would say in no instances would they combine the situations I have just described because of the party element. I'm speaking of an area outside the state -- maybe I'm speaking of---.

JUDGE WOOD: It is not good for Texas.

THE WITNESS: No. Now, I didn't say that.

JUDGE WOOD: Multi-member districts are not good for Texas. Is that what you're saying? Maybe good for other places?

THE WITNESS: I tried to specify why this situation in the State of Texas, why they are objectionable, and they are objectionable because as a legal framework they tend to continue to reinforce and to increase racial polarization, racial prejudice and all the things that follow.

JUDGE WOOD: Isn't that what Whitcomb versus Chavis and all the other cases decided by the Supreme Court, this case and all the others decided by the Supreme Court and the Fifth Circuit are all about, and they have held in those cases that multi-member districts are not per se constitutionally impermissible. Isn't that true, even though they do involve---?

THE WITNESS: Your Honor, I said at the outset to your question that I found some wisdom in -- at least some pause in the Supreme Court's judgment. It was upheld in my view, in my opinion after completing this study that you can't say that multi-member districts without any regard to population or any regard to the history of a situation, racism, official racism and so on, you can't say

that multi-member districts are inherently discriminatory.

JUDGE WOOD: Don't you really feel that the Supreme Court has suggested and the evidence in all these cases make it more suspect if they are larger, like Dallas County which had a population greater than five sovereign states? They become more suspect when they're bigger, don't they?

THE WITNESS: Your Honor, scale -- I really can't agree with that.

JUDGE: WOOD: All right.

BY MR. KORBEL:

Q Specifically, before we continue, have you made an opinion as to whether or not the multi-member districts discriminate per se or discriminate against Mexican-Americans and blacks in Galveston County and Hidalgo County?

A Well, my conclusion based on what I directed here---.

JUDGE WOOD: I thought they were out of the case.

MR. KORBEL: I'm only pointing out to the Court that he is not saying that all the---.

MR. RICHARDS: Galveston County is not out of the case, Your Honor.

JUDGE WOOD: I understand Galveston, but I'm talking about Hidalgo.

MR. KORBEL: I'm explaining to the Court that his opinion would be in at least two counties multi-member districts are not unconstitutional.

JUDGE WOOD: Well, you have given up on your proof on that, haven't you?

MR. KORBEL: Yes, Your Honor.

THE WITNESS: May I address just that question?

JUDGE WOOD: All right, go ahead.

THE WITNESS: What I am saying, your Honor, is that in Galveston and Hidalgo Counties one cannot -- for different reasons one cannot come up with the same kind of situation that you can in other counties and, hence, the multi-member district as a legal framework doesn't work the same way vis-a-vis minority groups and their voting participation.

BY MR. KORBEL:

Q Do you have an opinion, Dr. Cotrell, with respect to Lubbock County whether or not the multi-member district operates to cancel out the voting strength of racial and political elements of the voting population?

A I think I have answered that, yes.

JUDGE GOLDBERG: Many times.

MR. KORBEL: Moving on to El Paso then, Your Honor.

Q Before you went to El Paso, would you describe for the Court the method in which you prepared yourself to examine El Paso County?

A Well, it was very similar to the preparation for Lubbock. It involved electoral analysis. It involved interviews. I might pause here to say one of the interview situations was in what one could describe as a rare event. It was an event wherein the Democratic County Chairman, the Republican County Chairman and, I believe, representatives of La Raza, a third party in Texas, were all present in the same room. I thought that was rare for me to experience that, and I did read the depositions and -- well, I think the general preparation was similar to Lubbock.

Q How many days did you spend in El Paso County?

A Two days.

Q Did you consult with any members of the academic community there in El Paso County?

A Yes, I did. I consulted with the Professor of Government, Mel Strauss, Melvin Strauss, at the University of Texas at El Paso and had given to me a very good voting

study by Dr. Rudolfo de la Garza of the University of Texas at El Paso.

Q What was that voting study based on?

A It was based on an examination of select races in the 1972 primary in El Paso.

Q And I suppose when you were in El Paso County you were driven around and viewed the---?

A The physical experiences were the same. I drove, well, almost the entire portion of populated El Paso.

Q As a matter of fact, we had a twenty-some dollar cab fare. Is that right?

JUDGE GOLDBERG: You must have got a bargain rate.

Q Based upon your studies and research, Dr. Cotrell, how many Republicans have been elected to the State Legislature from El Paso County?

A In El Paso County none.

Q As a matter of fact, have any Republicans been elected to any office in El Paso County, any county-wide office?

A No.

Q How many Mexican-Americans have been elected to the State House of Representatives since Reconstruction?

A There have been four.

Q How many races have been had for the State House of Representatives since Reconstruction?

A How many races?

Q Yes.

A I believe in excess of 120 races.

Q And in that only four Mexican-Americans have ever been elected. Is that correct?

A That's true.

Q How many Mexican-Americans have offered themselves for positions of State Representative from El Paso County since Reconstruction?

A I believe there have been nine.

Q Does that say anything about candidate recruitment?

JUDGE JUSTICE: About what?

MR. KORBEL: Candidate recruitment.

A Well, I would suggest it says something about the rate of participation, not so much recruitment per se, but the way in which a candidate offers himself and the availability of Mexican-American candidates for a certain electoral office.

Q You're saying that there have been only nine Mexican-Americans who have offered themselves for election in El Paso County. Can you contrast that with Bexar County?

A Yes, Bexar County had since Reconstruction 22 Mexican-Americans who had offered themselves for political office, state legislative level, Democratic primary.

MR. KORBEL: I have another map, Your Honor. In the interest of brevity I won't put it up. I will describe it to the Court. It is another map with orange areas describing the Mexican-American areas.

JUDGE JUSTICE: Why don't you just display it?

MR. KORBEL: O. K.

(REPORTER'S NOTE: Map is placed on the easel.)

Q I'm referring to Plaintiff's Exhibit 44(a) and 44(b). Can you just describe to the Court what that represents?

A That's a map of the major population of El Paso County. The orange area which borders for descriptive purposes the Rio Grande River and then, of course, across from that would be the Mexican City of Juarez, contains concentrations of Mexican-American and -- Mexican-American essentially -- population in excess of 80 percent.

Q What would the total population of that

area be?

A The total population is in the range of 155,000, I think.

Q I'm referring now to Plaintiff's Exhibit Moreno 40-El Paso, and is that a census study of generally that area in orange?

A Yes, it is.

Q Was that done under your direction and control?

A Yes, using census data essentially.

Q Now, would it be fair to say then that this orange area is a population of about 155,000, and it is about 86 percent minority, primarily Mexican-American?

A As a more precise percentage, yes. I said 80 percent plus.

Q Can you contrast that with Bexar County?

A Well, we don't have a map of Bexar County, but visually that would be the Mexican-American and black population in Bexar County -- the Mexican-American population in Bexar County would be in the west portion of the city of the 27 census tracts, containing 211,000 people, and I think that would constitute 30 percent of the total population of the county, as contrasted here with roughly 41 or so percent of the total population of El Paso.

Q In economic and social terms can you compare

the two areas?

A They would compare, as it were, favorably. They would compare almost identically.

Q To your knowledge -- we're referring, of course, to the Mexican-American area of Bexar County that was before this Court in 1972 -- the 27 contiguous census tracts.

A Yes.

Q To your knowledge have any state legislative candidates resided in that orange area since 1960?

JUDGE JUSTICE: Now, are we talking about El Paso.

MR. KORBEL: Yes, sir.

A None have resided in the orange area.

Q Can you contrast that with Bexar County, with the Bexar County volume?

A With the 27 census tracts just described, yes.

From the time of -- well, from the time of Reconstruction on or from 1960 on, I should say, six people have lived in what would be the 27 census tracts.

Q Six candidates have lived---?

A Six candidates but only one lived there who actually held office.

Q Did another one live very close to---?

A Yes, Mr. Rudy Escobel lived in the outer perimeter of Bexar County.

Q So that in the Bexar County general districts there had been six candidates since 1960. One was elected and one lived very close---.

A Yes.

Q Dr. Cotrell, based on your examination of election returns in El Paso, have you reached any conclusions as to the tendencies of the Mexican-Americans and Anglos?

A The conclusions I would reach concerning select voter comparison, select electoral race comparisons in El Paso County would be stated like this.

Mexican-Americans tend to vote for Mexican-American candidates. Anglo-Americans tend to vote for Anglo candidates. When there are two Mexican-Americans in the race, Mexican-Americans in El Paso County tend to split their vote. When there are no Mexican-Americans in the race, Mexican-Americans tend to vote for the most popular Anglo or the most visible Anglo candidate.

Q Can you contrast those findings with the evidence which is before the Court in 1972 when the Bexar County case was tried?

A The voting findings are identical.

Q In Bexar County and El Paso County?

A Yes.

Q Do you have any knowledge as to the cost of running a campaign in El Paso County?

A Estimates have it from 15 to 20 thousand dollars.

Q How does that compare with Bexar County?

A I believe, as a matter of record, the average is $8,600.00 in Bexar County.

Q The record indicates that reported expenses for an elected candidate in Bexar County was $8,600.00. Is that correct?

A Yes.

Q Are you aware of estimates of the number of Mexican-Americans who are registered voters in El Paso County?

A The---.

Q Estimates of registered voters in El Paso County -- let me rephrase the question.

What percentage of the registered voters in El Paso County are Mexican-Americans?

A The estimate given to us, I think, by the immediate past chairman of the Democratic Party is 38 percent.

Q And what about in turnouts? How do Mexican-Americans turn out for elections?

A The estimated differential in turnouts in El

Paso was roughly 60 and 30, 60 percent Anglo versus 30 Mexican-American. I would have to say, though, that the differential is roughly 25 percent. That's what the estimate given to us suggested.

Q How does that compare with Bexar County, the Mexican-American turnout in Bexar County in registration?

A From voting studies done in Bexar County under my direction, roughly the Mexican-American turnout there would be, oh, 30 percent, maybe higher. The registration percentage in Bexar County would be 40 percent, thereabouts.

Q So in El Paso County we have 38 percent of the registered voters who are Mexican-American, and in Bexar County we have 40 percent?

A Yes.

Q Now, we have a great deal of testimony in the record about the number of Mexican-Americans who have served on the City Council in El Paso. Do you remember what that figure was? On the current City Council in El Paso.

A The current City Council?

Q Yes.

A If memory serves me correctly, there are---.

JUDGE GOLDBERG: Mr. Korbel, haven't we got this in the record?

MR. KORBEL: Well, I want to compare this all with Bexar County, Your Honor.

A The City Council I would have to check. I think there are two or three Mexican-Americans. I'm not certain, currently.

MR. KORBEL: There's one more comparison I would like to ask, Your Honor, and then I'll pass.

Q There has been some testimony about judgeships in El Paso County. Can you compare the number of Mexican-Americans who hold district judgeships in El Paso County with the number of Mexican-Americans who hold judgeships in Bexar County?

A Well, the testimony -- I believe testimony given yesterday has indicated that one Mexican-American holds a county judgeship in El Paso. This would contrast in Bexar County with one county judgeship, Judge John Benavides, and also one Mexican-American serving on the Texas Court of Civil Appeals, Carlos Cadeno.

JUDGE WOOD: Well, that's not just Bexar County, though. That's 68 counties in Texas.

THE WITNESS: Yes.

JUDGE WOOD: They just happen to sit in El Paso.

THE WITNESS: Yes.

The comparison then would be one district judge in each county.

MR. KORBEL: For the purposes of the record then, Your Honor, Bexar County is the most substantial population area in the 68-county district. That's the reason we're offering that evidence.

BY MR. KORBEL:

Q In your opinion, Dr. Cotrell, has the history of official racial discrimination touched the life of Mexican-Americans and blacks to participate in the Democratic processes in El Paso County?

A Yes, it has.

Q Dr. Cotrell, in your opinion does the multi-member district in conjunction with the majority place system operate to minimize or cancel out the voting strength of Mexican-American and black minorities in El Paso County?

A Yes, it does, but I would like to comment on that, if I may.

Q Please.

A We heard much testimony yesterday by some live witnesses from El Paso and, of course, one is struck by the fact that El Paso has 56 percent plus Mexican-American population, I think approximately four or five percent black population, so one would reach the conclusion that in

this situation a multi-member district would be to the benefit of the other situations submerged and otherwise canceled voting strengths of racial minorities, but I think one has to look very closely here at two things.

One is the turnout percentages, differentials between Anglos and Mexican-Americans, and, secondly, one has to look at the question of whether or not there actually exists a racial atmosphere, a racial awareness, a racial polarization in El Paso County. In this situation then one of the explanations that could be given for so few Mexican-Americans being elected to the Legislature then from that county would be that the numerically smaller Anglo population still controls through the legal device of the multi-member district. They are still able to exercise controlling influence through high percentages of turnout.

JUDGE GOLDBERG: Are you through with---?

MR. KORBEL: Yes, Your Honor.

EXAMINATION

BY JUDGE GOLDBERG:

Q The predicate of your expert conclusions, as I take it, or the major predicate, is racism with all of the things that flow from racism. Are you suggesting that

[606]

socio-economic conditions which make for groupings within a society, which have nothing perhaps to do with racism, would also lead you to the same type of conclusion with respect to multi as distinguished from single-member districts?

A No, I'm not, Your Honor. I'm not suggesting that what is traditionally thought of as class is the predominant factor in El Paso elections. I am suggesting that my conclusion is that race is the determining factor, and I have tried to show how.

Q You're sticking with race. If you had 100 percent Anglos, 100 percent fourth-generation Americans, a completely homogeneous population and the only heterogeneity you had in any county would be socio-economic differences -- rich people go with rich people, we'll say---.

A Yes.

Q Poor people go with poor people, go to the same ball, that would make no difference to you. Is that correct?

A I'm not sure I understand your question. Yes, personally it makes a difference. The question is whether elections in this country are usually discussed in class terms, and, most importantly, in Texas, I suppose, or whether they turn on race terms, and the evidence that I have seen suggests that in these multi-member counties the

[607]

racial factors, as far as a visible factor, is much greater. Now, if we're speaking of my own personal opinion, of course, you have to find that overlapping greatly the class factor is the racial factor, but it seems to me that that is not the predominant issue before this Court, it seems to me, that is, the class question. It is a difficult one, and it is one that probably a multi-member district could affect, but I'm not prepared -- I have no conclusions -- I have no prepared conclusions concerning class.

Did I make myself understood?

Q Yes. The Court is faced with the problem that not every single multi-member election in the United States of America, city, county and precinct would receive the judicial condemnation. You understand that, do you not?

A Yes, I do.

Q There must be an underpenning before you get to show some invidiousness which violates the Constitution. Your testimony relates, as I understand it, to racism as that invidious factor. Now, do you want to add any other factor?

A Just racism as evidenced, as I understand the evidence before this Court, in racial polarization demonstrated in voting, in other incidences and a past history of official racism in the State of Texas, which has the effect of -- if we know anything about attitudes at all -- it

has the residue effect -- in other words, people's minds are warped long beyond the time possibly that the situation would demand their being warped.

JUDGE WOOD: Excuse me. How are single-member districts necessarily going to improve that condition in a county -- I'm addressing myself to Lubbock, which is less than 250,000 people, Lubbock County.

THE WITNESS: Well, you want to go back to Lubbock?

JUDGE WOOD: We're talking about small counties.

THE WITNESS: Yes, I understand.

We have not taken impact studies yet of what happens when we have a change from multi-member to single-member districts. There should be no dramatic electoral differences, but we have no impact studies. They are being conducted now. There needs to be a time built up there, but the suggestion is that the multi-member district in a small area can work as a legal framework in which one increases racial polarization and maintains it and, two, acts to further discourage along racial lines participation and voting effectiveness of racial minority groups. Now, that

would hold true regardless of the question of scale. I suggested that in the smaller counties, which there is some notion that is only a question of size and scale here -- I suggested that in the smaller counties, the more agrarian in heritage, more rural-based economies it can act in a more devastating way. I can freeze the situation into perpetuity as I think some of the electoral results of Lubbock and other counties that we would consider would demonstrate.

JUDGE WOOD: But poor people, irrespective of their race, can run cheaper in Lubbock. You admitted that. The prices of seeking election at large is quite reasonable. Isn't that true?

THE WITNESS: Well, I didn't suggest that cost is the only factor. I suggested there are a whole set of factors involved here that would make it difficult -- I would say impossible in terms of accurate political thinking for a member of a minority group to expect to be elected in Lubbock, Texas, county-wide.

JUDGE JUSTICE: I would just ask, didn't Nixon versus Herndon, one of the early cases involving racial discrimination, originate in El Paso County?

[610]

THE WITNESS: I have not connected that. That's true. Did you have a question about El Paso?

JUDGE WOOD: No, not about El Paso.

MR. KORBEL: The final county that I am involved in, Your Honor, is Nueces County.

FURTHER DIRECT EXAMINATION

BY MR. KORBEL:

Q Can you describe to the Court what you did in Nueces County to prepare yourself to testify here today?

A The preparation was very similar to the other counties involved. It included electoral analysis. It included examination of legislative races and candidates filed for those races back in the 19th century. It included interviews and included depositions, and it included a cursory examination of the Seals' decision in the Cisneros case.

Q Are you otherwise generally familiar with Nueces County?

A Well, because of the proximity to my home county, yes, and the fact that I did teach a year at Texas

[611]

A & I University in Kingsville some years back.

MR. KORBEL: May I approach this, Your Honor?

JUDGE GOLDBERG: How many more witnesses do you have, Mr. Korbel?

MR. KORBEL: This is my last one, Your Honor.

MR. RICHARDS: Judge, I have some.

JUDGE GOLDBERG: I know, Mr. Richards. We're not going to forget you, nor you, Mr. York.

MR. YORK: Your Honor, may we invite one of our witnesses inside the rail so that he may view this?

JUDGE GOLDBERG: Any place you want. Up here if it will help.

(PAUSE)

BY MR. KORBEL:

Q I'm referring now to Plaintiff's Exhibit Moreno 43(a) and (b), that being described to the Court as generally the Mexican-American, specifically heavily concentrated Mexican-American area in Lubbock County -- or in Nueces County, I should say. It has also been referred to in the Seals' decision as the corridor area. Is that correct?

A That's true.

Q Can you tell the Court in general terms what would the racial breakdown of the corridor area be?

A The racial breakdown is approximately 80 percent plus Mexican-American, and the percentage of black population there is -- I'm not sure. I think it is five or six percent.

Q That's correct. I'm going to show you now Plaintiff's Exhibit Moreno 42-Nueces. Is this a study which you had done on the high concentration of the Mexican-American tracts in Nueces County?

A Yes, it is.

MR. KORBEL: And that is in evidence.

Q Can you compare, once again, this area with the Mexican-American area in San Antonio before the Court in the Graves case, the Graves decision?

A I can give rough statistics that would need verification, but the corridor area constitutes a roughly 40 to 45 percent, 40 to 42 percent of the population of the county.

Q When you say 45 percent of the population, that would include all the tracts which are predominantly Mexican-American?

A Yes, probably be a little lower than in the corridor area itself, which includes census tracts 1 through 18.

Q But generally in economic and social terms it would be about the same as the San Antonio -- is that correct---?

A Yes.

Q ---in Graves versus Barnes?

A Yes, it would.

Q O. K. In Nueces County has there ever been a Republican elected to the Legislature?

A Yes, there has. There was a Republican elected in a special election, and I believe that he defeated a Mexican-American candidate, a Mr. Gonzales, in 1966, again the general election.

Q With this one exception, is the Republican Party a major competitor on local and county-wide races to the Democratic Party?

A I don't think you could say that, no.

Q How many Mexican-Americans since Reconstruction have been elected to the State Legislature to represent Corpus Christi or Nueces County, I should say?

A I think there have been two.

Q How many Mexican-Americans have offered themselves for the position of State Representative since Reconstruction from Nueces County?

A I believe there have been five.

Q I think you are mistaken.

A I think -- I'm not sure.

Q Would eight be the right figure?

A Eight or nine. I'm not sure.

Q Can you compare that with Bexar County?

A Well, as I have already testified, 22 Mexican-Americans presented themselves for candidacy in the Democratic primary.

Q Have you reached any conclusions based on the electoral data which you have analyzed for Nueces County?

A Yes, we analyzed a number of state legislative races there, and the conclusions are very similar to those found in Bexar County and similar to those found in El Paso, and that is that Mexican-American candidates draw Mexican-American voters. Anglo voters tend to vote against Mexican-American candidates, and in a race between two Mexican-Americans, Mexican-American voters tend to split their vote, and I'm not sure one could conclude that Mexican-American voters tend to support the most popular Anglo candidate, although there are some races which demonstrate that.

Q As a matter of fact, have you analyzed all the state representative races since 1960 in which Mexican-Americans have had a part?

A Yes, except one where I did not get data.

Q Can you compare the number of persons who

served on the City Council of Corpus Christi with the number who have served on the City Council in San Antonio?

A There have been---. Well, I think currently there are three members of the City Council in Nueces County who are Mexican-American, and I believe there was one black member out of a seven-person council. There is in San Antonio currently three Mexican-Americans serving on the City Council and one black person.

Q There has been evidence in the record, I think, based on all the depositions concerning Nueces County and based on the live testimony which we had yesterday from Carlos Truan, that there is an increased polarization of racial and ethnic groups in Corpus Christi and Nueces County.

Did you find any facts in the election returns which tend to lend credence to that position?

A Yes, I have already suggested that. The relative voting distribution in Nueces County based on that analysis, particularly in the boxes analyzed or the area analyzed, would be the metropolitan or the area south of Webber Road. Some of the precincts that come to mind are Precinct 92, 65, 90 and so on, and you find racially polarized voting in all of the precincts analyzed there and, of course, you find Mexican-Americans in the mid-corridor area in Precincts 39, 40, 41, 42, so on, supporting Mexican-

American candidates.

Q Did you find increased racial polarization though from the elections held in the mid sixties until elections held in 1972, for example?

A In election analysis, yes, we do focus on one race, one candidate rather, particularly, and that would be current Representative Carlos Truan. We find that in 1972 Mr. Truan, although winning and losing some of those boxes, I indicated, I believe, losing most -- I would have to check -- you still have evidence of racial polarization in terms of percentage of support, particularly when compared with percentages of support which Mr. Truan received in 1968 when he ran against Mr. Smith.

Q The boxes you are referring to are south of Webber Road?

A Yes, the select area. It also includes, I think, a somewhat rural Box 17.

Q Dr. Cotrell, based on your knowledge of Corpus Christi and all the data which is in the record, including the depositions, do you have an opinion as to whether or not a history of official racial discrimination in Nueces County has affected the right of Mexican-Americans and blacks to participate in the democratic process?

A Yes, I think that you have some official racism, but mainly you have a number of incidences in the

depositions that suggest latent and residual racial feeling which has been brought out openly since the Cisneros case or since 1970, since the case was first decided. Also, I think you find some of this in the City Council election, both in campaigning and in the issues drawn. I believe the election was in 1971, and it was based upon two groups who pretty much divided along racial and busing lines.

Q In your opinion, Dr. Cotrell, does multi-member district in Nueces County conjoined with the place system operate to minimize or cancel out the voting strength of racial or political elements of the voting population?

A Yes, it does.

Q Those would be the Mexican-American and black elements of the population. Is that correct?

A Yes.

MR. KORBEL: Your Honor, I won't ask any more questions. I would like to apprise the Court of the fact that considerable evidence of specific acts of discrimination, both official and unofficial, is contained in the depositions, and we aren't going to parade that before the Court.

JUDGE WOOD: May I ask one question here, Judge Goldberg?

JUDGE GOLDBERG: Yes.

EXAMINATION

BY JUDGE WOOD:

Q Now, Corpus Christi elects at large, do they not, their City Council? In other words, they do not elect by single-member or ward districts, do they?

A They elect at large, that's right.

Q The mayor and the councilmen are how many total?

A I think it is a seven-person City Council, yes.

Q Now then, what is the mayor? Is he an Anglo?

A The mayor is an Anglo.

Q Who is he?

A Name -- I don't know whether I have it, sir.

Q Is there a black on the City Council?

A Yes.

Q Who is that?

A I don't have his name.

Q All right. And how many Mexican-Americans are on the City Council elected at large?

A There are three.

Q There are three, and there are only two Anglos on the City Council?

A Well, if it's a seven-person City Council, and there are four minority members, then there would be three Anglos.

Q With the mayor?

A Yes.

Q That's what I mean.

A Yes.

Q There's a mayor and two Anglos on the City Council, three Mexican-Americans elected at large and one black elected at large?

A Yes, this is an at-large election.

Q Now then, with reference to the House of Representatives, how many members are there in this multi-member district?

A There are three.

Q DeWitt Hall?

A Yes.

Q Who is the other one?

A Representative Joe Salem and Representative---.

Q Carlos Truan?

A Yes.

Q And Carlos Truan is serving his third term. He's been reelected twice -- he's been elected at large in

this multi-member district on three occasions?

MR. KORBEL: Your Honor---.

Q ---and Tony Bonilla before him?

A Yes, Tony Bonilla, and I suggested that a Mr. Gonzales lost in 1966 to the Republican, in the general election.

Q And, of course, the Republican lost to Mrs. Sissy Farenthold. Isn't that right?

A Yes, that's true.

Q All right, but at the present time there's two Anglos and Representative Carlos Truan, who is a Mexican-American?

A Yes.

Q How long has there been a Mexican-American on the City Council? How many years does this go back? Take Mr. Tony Bonilla. How long was he on before Representative Truan went on?

A Let me check, Your Honor. If I can find that in Nueces County.

Q But Mr. Bonilla was elected -- he was elected---.

JUDGE GOLDBERG: Let Mr. Korbel say if he knows.

MR. KORBEL: Mr. Bonilla was elected, I believe, in 1964.

JUDGE WOOD: All right.

MR. KORBEL: He was not reelected in '66. Mr. Truan was elected in '68 and served---.

JUDGE WOOD: So he has been elected three times at large:

MR. KORBEL: Yes.

JUDGE WOOD: That's all I have. O. K.

JUDGE GOLDBERG: Do you have anything further?

JUDGE WOOD: That's all I have.

THE WITNESS: I just wanted to point one thing out.

JUDGE WOOD: All right.

THE WITNESS: Your Honor, we used City Council elections and, quite obviously, my retention capacity in City Council elections is not everything it should be, but we used it because, although they don't correspond to the multi-member districts in size, you do have essentially the same areas, but I would like to point out one significant difference, at least it seems to me in this case, and that is the difference that in City Council elections you don't have the visible, dramatic symbol of Democrat or Republican for identification purposes. This makes a tremendous

amount of difference.

JUDGE WOOD: Well, single-member districts won't eliminate that.

THE WITNESS: No, no, I'm suggesting that the state legislative posts -- we're really talking about primary elections, so you do have some obscuring factors in city elections, and sometimes they are explicable and sometimes they're not.

MR. KORBEL: I have one further question just to bring something up on City Council elections.

FURTHER DIRECT EXAMINATION

BY MR. KORBEL:

Q Are those City Council elections held by slate? Is there a slating process?

A In Corpus Christi in 1971 they were held by slate, I think the Now Party and the People's Party.

Q And was one party successful in electing everyone except one?

A That's true. That would have been the Now Party slate.

MR. KORBEL: Thank you. That's all.

JUDGE GOLDBERG: We'll take a 15-minute recess.

(REPORTER'S NOTE: The Court then, at 10:35 o'clock, A.M., December 5, 1973, recessed until 11:00 o'clock, A.M., the same day, at which time it reconvened.)

JUDGE GOLDBERG: Mr. Richards?

MR. RICHARDS: Yes, Your Honor.

JUDGE GOLDBERG: How long do you think you're going to detain us?

MR. RICHARDS: I promise to complete everything in six hours.

(LAUGHTER)

MR. RICHARDS: But I'll try to keep it within 30 minutes.

One Matter preliminarily. We have in evidence -- I thought I might identify them just for the record -- various exhibits which do essentially what the big maps do.

JUDGE GOLDBERG: I hope so.

MR. RICHARDS: That show minority concentrations through various areas. Our Exhibit No. 3

is to Jefferson County. Moreno Exhibit 38 is to Waco, McLennan County. Moreno Exhibit 39 is Travis County, and they contain figures showing minority concentrations.

JUDGE GOLDBERG: Mr. Richards, before you proceed with your expert, can I ask him one question?

MR. RICHARDS: Sure. Excuse me, certainly.

EXAMINATION

BY JUDGE GOLDBERG:

Q Maybe I didn't understand you right. Did you testify that multi-member districts in your opinion could be justified in Hidalgo and Galveston County? If you have a difference of opinion, please tell us the whys and wherefores of it.

A Well, Your Honor, I suggested earlier that the multi-member district as a legal framework operates differently in different contexts. In most of the contexts or the counties we're dealing in terms of background of the counties and the racism of the counties. It works to disenfranchise or subvert minority groups. Two of the factors involved were history and population. I don't mean those

together. In the case of Hidalgo the percentage of the population which is Mexican-American is in excess of 80 percent, I would presume, or maybe higher, and you reach a point in that where, first, you're not speaking of a white voting majority controlling who is in. You are speaking, in fact, of a percentage that is so high that the number of Mexican-American candidates -- this suspect class -- you would have to -- you've got a sliding thing. You're coming to another range -- now, this is a social science question, Your Honor, and I don't mean to clutter up the Court record with that. But when you come to a range, given low turnouts, history of racism, low participation rates, and so on, of say slightly 50 percent or below in minority concentration, then we see the conspiratorial effect of the multi-member district at work.

MR. RICHARDS: As to Galveston.

Q You're talking about Hidalgo now?

A Hidalgo. Now, in Galveston I don't mean to say there has not been segregation in Galveston, but Galveston, as the Court knows, is -- all of these things are different, but Galveston is a city that is rich in multi-cultural background for long periods of time. It is a city wherein---.

Q You're talking about the county or the city?

A Galveston Island itself, and that's the

dominant portion. You might have different patterns on the mainland itself.

Q That gets into this case, doesn't it?

A Yes.

Q All right.

A Well, I would have to -- in my opinion I would have to suggest that historical reasons explain Galveston. There has been a peculiar relationship between ethnic minority groups, and maybe it has something to do with that island. There are a number of things, heavy industry, the port and so on.

Q What is the position of Counsel with respect to Galveston?

MR. RICHARDS: Our position with respect to Galveston is stated essentially by the testimony of Representative Harris. We say that there has been a fragmentation in the sense that the districting removed from the basic district a substantial black tract, Tract 1219, utterly unreasonable, tagged it into Harris County, creating a dilution by that fashion---.

JUDGE GOLDBERG: That which was pure because impure?

MR. RICHARDS: Exactly, and our second step in the process is that we're going to ask the

Court to restore that tract to the basic district.

JUDGE GOLDBERG: But the argument in Galveston will be quite distinctly different than the other counties. Is that your point?

MR. RICHARDS: Exactly.

JUDGE GOLDBERG: And this expert witness is not addressing himself to that?

MR. RICHARDS: Well, yes and no. He is addressing himself to the extent that he is responding to your questions that our investigation did suggest that a multi-member district does not always result in the dilution and deprivation of the minority vote, and that in Galveston County we found this a factor. That's all.

JUDGE GOLDBERG: You can add this to your 30 minutes. Proceed.

JUDGE WOOD: Mr. Richards, he has raised another point with reference to Hidalgo that also I'm going to ask him about.

MR. RICHARDS: Sure.

EXAMINATION

BY JUDGE WOOD:

Q How do you reconcile your findings that because of the Mexican-American majority in Hidalgo - do you reconcile that with your opinion in El Paso County where the population is 58 percent Mexican-American, 3 percent black, and all the rest are Anglo and all others? Now, why is there a difference?

A Your Honor, I began by saying that this is a social science answer, but I think it will hold up even if it were computerized.

Q Well, you can see the similarity of your argument between Hidalgo and El Paso.

A Yes, Your Honor, except one very large district. There is a fantastic differential that offsets the turnout participation rates in Hidalgo which does not offset the participation rates in significant concentration in majority or near majority concentrations in other counties. It is so great in Hidalgo that there has run, of course, the analysis, but you would expect ---.

Q What you're saying is the minority of those not Mexican-American are not dominating the Mexican-American

turnout or voter participation in Hidalgo, but this 38 percent Anglo and less is dominating it totally in El Paso. Is that what you're saying?

A I tried to explain the range of differences here and how the multi-member districts could affect it, and that's why my conclusion---.

JUDGE GOLDBERG: What you're saying is if it's 95 percent Mexican-American, you wouldn't have any problems?

JUDGE WOOD: Or 80 percent.

JUDGE GOLDBERG: Well, I didn't mean to make it reductio ad absurdum. Is that what you're saying?

THE WITNESS: I don't want to suggest that the multi-member district does not work its ill effect, its discriminatory effects in near majority or majority populations, but you move to a point---.

JUDGE GOLDBERG: That's the point.

THE WITNESS: Right.

JUDGE GOLDBERG: Well, say so.

THE WITNESS: I've been saying that.

JUDGE GOLDBERG: All right, that's what I wanted to hear you say. I asked if you had 99 percent Mexicans, they would have access to the political process.

THE WITNESS: There's no one else.

JUDGE GOLDBERG: Well, say so.
Now, add that to your 30 minutes and go on.

CROSS-EXAMINATION

BY MR. RICHARDS:

Q Dr. Cotrell, did you and I make similar trips to McLennan, Travis, Jefferson and Galveston Counties to those that you have described in your earlier testimony?

A Yes, we did.

Q And did our investigations in those counties comport with the kind of investigations that were conducted in Nueces and El Paso and Lubbock?

A Yes, they did.

Q Before turning specifically to the counties in question, did you find any particular similarity, at least, in electoral history with respect to the minorities in McLennan, Travis and Jefferson in terms of the electoral history wihtin those particular areas?

A Well, yes. Jefferrson, though, in my opinion is---.

Q Well, let's take them one by one.

JUDGE JUSTICE: Yes, taken them one by one.

Q Let's turn to Jefferson County.

A In Jefferson County you have what I would consider to be a very dismal situation concerning minority participation. In fact, there would be a contradiction in terms as far as people offering themselves for office and so on. There have been two -- the same person -- two times a black person has sought legislative office in Jefferson County since Reconstruction. You have all of the traditional low participation and so on, which has been described in other counties, except that you have in Jefferson County, as well as a couple of others, an almost locked-in situation. It comes closest to -- political scientists use the term "the old South model," but the old South model with a heavy industrial base.

Q Roughly what were the percentages of blacks both within the county and in the multi-member legislative district?

A The percentages, I think, roughly within the county would be upwards of 30, 33, 34 percent. In the multi-member district---.

Q No, I think---.

A Yeah, it's just the other way around. The 25 percent figure would be in the county itself, and the multi-member district which extends into another county would be roughly 30-34 percent.

Q To what extend did you find the black

minority of Jefferson County was an effective participant in the political life of the county and with particular reference to the legislative district?

A I think the black community is effectively in Jefferson County sealed off from participation. As I mentioned before, you had Mr. Al Price run for Democratic nomination in the multi-member district for the Legislature twice.

JUDGE JUSTICE: He is black?

THE WITNESS: Yes.

MR. RICHARDS: Mr. Price by his deposition, Your Honor, is identified as being the first black in the history of the United States to be hired as an American Airlines pilot, a retired Army officer, a long-time citizen of Jefferson County. He ran twice for the Legislature---.

JUDGE GOLDBERG: We've heard about his name. Let's take off.

BY MR. RICHARDS:

Q Have you done some analysis by way of the 1972 Democratic primary elections in which Mr. Price was a candidate?

A Yes, I have.

Q What did they reflect his capacity to appeal

to white as distinguished from the black people?

A Your question was considered. I was shocked by one particular comparison made in the case of Mr. Price. In '72 one of the electoral analysis contrasts was between mid county boxes. That would include places like Nederland and so on, which are heavily Union, middle-class and white areas census tracts with the Beaumont boxes, as it were, that are predominantly black in a race of six people, as I recall.

Q That's correct.

A Mr. Price in these mid county boxes ran sixth, yet included among those six was a student who by now I think he's teaching at Lamar Tech, Phil Richey, who didn't by his own concession seriously campaign. He ran sixth out of six. In our contrasts here he got 3.59 percent of the vote. Yet, he was by all standards a really attractive candidate and one of three who had gained the -- not the endorsement -- but he had gained the acceptance as one of three permissible candidates or O. K. candidates by the Labor Council in the county, so this was 3.59 percent of the vote in white areas, and, of course, it contrasted to nine point-something one in the black areas, and we ran a contract here and the same pattern held up. He did slightly better.

Q Something like 90 percent, you say, in the black areas?

A Ninety plus, yes.

[634]

JUDGE GOLDBERG: Do you have anything in the record here to show the membership of Labor Unions in Jefferson County?

MR. RICHARDS: The record testimony on this question is as follows, Your Honor, that: (1) Jefferson County was a historical refinery and petrochemical industry, heavily Unionized, a history of segregated local Unions. They were broken down in the mid 60's along separate lines of seniority, broken down in the mid 60's; that as a consequence of that -- the testimony from Mr. Nisbey, who is a black member of the Labor down there and presently N.A.A.C.P., is that the blacks no longer even hold offices in the Unions. That is the testimony that they are in a subordinate position in terms of---.

JUDGE GOLDBERG: I just wanted to know particularly how many members of the Unions there were.

MR. RICHARDS: We do not have that. We do have a history of segregated locals.

JUDGE GOLDBERG: I understand.

BY MR. RICHARDS:

Q In that connectqon, Dr. Cotrell, did you find any continuing effects of the past history of segrega-

[635]

tion and discrimination in politics of Jefferson County?

A Yes, there is no doubt.

Q In what way?

Well, first, how is it manifested?

A Well, in racial campaigning; the question, Mr. Richards, in Jefferson is not whether there would be one black breakthrough or this or whatever. The question there is really one of desperation and deeply based racial feelings based out of, I guess, one of the most profound feelings, that is, black people may get someone's job.

Q Has there been a history of campaigning in that county that we're told about where notably the candidate for Congress who had voted for the Civil Rights Act was opposed in part on the next election on the grounds that as a result of that vote for the Civil Rights Act they were going to have blacks taking white jobs?

A Yes, and you have instances, for example, I think most graphically what was called Proposition 15, which I believe came up in the 1971 election. Proposition 15 dealt with changing the city to a ward system for City Council elections. It was defeated, but at the same time and O.K.'d on the same ballot and in the general context of Jefferson County,

a proposition which endorsed, went from a plurality to a majority system was endorsed. Now, that item alone would mean nothing except in the context of

Jefferson County and, I think its long history of official and unofficial, as it were, racism.

Q What is your opinion as to the effect of legislative multi-member districts upon minorities' access to the political process in Jefferson County.

A In Jefferson County I would say unequivocally that as long as a multi-member district is maintained no black person stands any kind of a chance of being elected.

Q What about the responsiveness of the legislative delegation of Jefferson County to the particular needs of the minority community?

A Although I don't have detailed knowledge, I do have knowledge based on the depositions, and I believe that the legislative delegation of Jefferson County in the '50's voted for segregation statutes. I believe that you have, at least from my interview, participants, the perception of the black community is that there is practically no contact whatsoever.

Q Without carrying you unduly, but were you present during the trial of the Regester case originally?

A Only partially.

Q You are generally familiar with the record in that case?

A Yes.

Q Could you compare for us the status of the

black minority of Jefferson County with that of Dallas County as to, could you make any kind of comparison?

A All I would say is that the status in terms of participation and status in terms of probability of participation and general status of black political awareness and black political efforts, there is just no comparison whatsoever. The Dallas situation, if some would like to say this, blacks were much better off.

Q Better off in Dallas than they are now in Jefferson County?

A Yes.

JUDGE GOLDBERG: You mean prior to the reapportionment, too?

THE WITNESS: Yes.

Q In terms of the multi-member district in Dallas and how it affected blacks and in terms of how the multi-member district in Jefferson County affects Jefferson County blacks, is it better or worse in Jefferson County than it was in Dallas County?

JUDGE GOLDBERG: What year?

Q Well, in 1970 when we tried---. In 1971 when we tried Regester, I would like to compare the status of blacks in Dallas in that multi-member district with the current status of blacks in Jefferson County operating in that legislative multi-member district with respect to

whether the status in Jefferson County is worse for blacks or better than Dallas.

A Well, in the first place---.

Q Is that clear?

A Well, I would take that ---.

Q Just a short answer.

A Well, it's worse.

Q Worse in Jefferson County?

A Worse, and I would take it first from the standpoint of legislative races and so on.

Q McLennan County we visited, too, did we not?

A Yes.

MR. RICHARDS: If the Court please, it is also in evidence this is the minority tract area of McLennan County which appears also on our exhibit (indicating).

Q What were you findings, if you can tell me, about the situation in McLennan County, Waco and environs?

A I would suggest that the McLennan County situation in terms of the background, in terms of what might be called Old South agrarian model would be very similar to places like Lubbock. That is, you have a very passive, quiescent black population and Mexican-American population with little hope of any kind of electoral success or any kind of real meaningful political participation in that

county. I recall, and this is only interview comment, but I think it is permissible before the Court. In interview with Bishop Adams, the president of Paul Quinn College there in Waco, and Dr. Adams had been away from Waco for ten years. He had been there up to '62 and left and came back in the early '70's, and one of the questions I asked him was, "Has there been any change?" and this is a man very active in politics throughout the country and in Waco, member of the black federation and so on, and he said, "No, there's been no change here."

Q No improvement in the conditions of the black community?

A No improvement whatsoever.

Q Specifically, do you recall -- it is established by deposition testimony -- what happened in connection with the city elections in Waco in terms of alteration of the election machinery there when the first blacks sought office?

A Yes. This refers to a study conducted by the League of Women Voters, and what they showed was when the first black candidate ran in 1949, I believe---.

Q '58, I believe.

A Huh?

Q '58.

A '58?

Q Maybe you're right.

A When the first black candidate ran and made some showing -- I'm not sure what the amount was, but the study reflects it -- the City Council elections then were changed from ward to at-large.

Q No black has ever been nominated in the Democratic primary for any office in McLennan County. Is that correct?

A No.

Q No black has ever even run for the Legislature that we can determine?

A No.

Q What are your conclusions in terms of the effect of the multi-member district upon the black minority and its participation in politics in McLennan County?

A As it concerns state legislative districting, the district itself, state legislative politics, it would be that it has an extremely adverse effect and continues to reinforce what I described earlier as traditional and quiescent participation rate, a quiescent and traditional political outlook.

Q Do we find any continuing effects of past history of segregation and discrimination in the politics in McLennan County?

A Yes, any number of official and unofficial

acts in that area. As I have tried to describe, it is an agrarian Old South model ranging from county employment, city employment, to, well, I think desperation best describes it.

JUDGE JUSTICE: Is this set out in the depositions? If not, we better hear some evidence relating to this.

MR. RICHARDS: All right, there are two depositions taken, Your Honor -- let me just digress here for a moment. Former State Representative Tom Moore's deposition taken by the State. His deposition indicates, one, with respect to city politics with respect to Waco that they went to a ward system after much debate. The first black ran for election in Waco, ran close enough that the City Council's first order of business upon convening the new Council was to go back to an at-large system. Representative Moore testified he had observed and it was his opinion---.

JUDGE JUSTICE: Well, that's all right.

MR. RICHARDS: Black participation in politics all declined in Waco purely and simply out of frustration. We feel like it is substantially bolstered in the depositions that are presently on file.

JUDGE JUSTICE: Is there any history of responsiveness of the State Legislators to the black interests?

MR. RICHARDS: The history, I suppose, as to that -- the testimony as to that is, I guess, somewhat in conflict. There was testimony from a black witness that he felt totally as if the legislative process was alien and foreign to the black community just with no role to play whatsoever. That is the testimony of Robert Gilbert.

JUDGE JUSTICE: There is evidence relating to it. That was what I was asking.

MR. RICHARDS: Yes, Your Honor, we think there is.

JUDGE JUSTICE: All right, go ahead.

BY MR. RICHARDS:

Q Dr. Cotrell, is there anything further you wanted to add in connection with McLennan County in connection with what we observed there?

A No, simply for understanding purposes maybe, I would suggest that McLennan County with its two representatives, that the effect of the multi-member district is very similar to that in Lubbock County.

Q Now, we have had substantial live testimony

with respect to Travis County, and you were, I take it, present during the course of all or virtually all of that testimony?

A Yes.

JUDGE GOLDBERG: What county did you say?

MR. RICHARDS: Travis, Your Honor.

JUDGE GOLDBERG: Yes.

Q Can you tell us, if you will what your conclusions are with respect to the effect of the multi-member district in Travis County as regards the electoral -- the effect of the multi-member district in Travis County upon blacks and Mexican-Americans and their participation in the electoral process?

A I think that it has the same effect as it has in other counties. It may work a different way, that is, it tends to subvert and submerge and permanently cancel out the voting strength of minorities in this county.

Q So is it fair to say at least with respect to your testimony as regards the counties of Travis, Jefferson and McLennan, that it is your opinion based on the studies and examination of the evidence, that the effect of the multi-member legislative district is to cancel out the voting strength of the minorities of those repsective areas?

A Yes, it is.

[644]

Q Have you found with respect to each of those counties continuing effects of the past history of discrimination and segregation in the electoral processes?

A Yes, and we have also heard some of that before this Court.

MR. GEORGE: I will be very, very brief.

JUDGE GOLDBERG: All right.

CROSS-EXAMINATION

BY MR. GEORGE:

Q Two or three things -- first, in response to general discussion with Counsel and the Court you talked about whether multi-member districts are always bad or discriminatory, and you talk about the legacy of racism, as you called it, in Texas. Are there other factors in Texas, the electoral process, besides general racism that might make some Texas multi-member districts unconstitutionally discriminatory?

A Well, one of the factors that we considered -- I think we have heard abundant testimony -- you would have to ask whether or not, for example, there were access to what has been called slate-making or endorsement by significant political groupings. That would be a factor.

[645]

JUDGE GOLDBERG: What did you find about those?

THE WITNESS: I found that in -- I had some quarrel with the notion of slate-making in all the cases, but, nevertheless, I found there was not significant access.

JUDGE GOLDBERG: In what counties?

THE WITNESS: In which counties?

JUDGE GOLDBERG: Yes.

THE WITNESS: We used the words of the Court in Tarrant County in -- I don't think we could describe Nueces and El Paso as a so-called slate-making state legislative level. I have already described, well, Jefferson County insofar as Union endorsement is significant, and McLennan and Lubbock I described those -- I don't think you could describe the politics as slate-making at all. I tried to give that a different cast, and that is what I found. I think that pretty well concludes the counties.

JUDGE GOLDBERG: Well, that's only two.

THE WITNESS: Well, I think, Your Honor, you have to distinguish -- and I don't want to get picky here, but we have to distinguish between -- slates take the place of parties sometimes, but

they can only take the place of parties in their identification if they have a long-term success, and they are well identified in the community. I don't mean one that just popsup and someone puts it together, and they just disappear, but I think you can talk in the counties I mentioned, though, of Tarrant of the significant political endorsements, and the question then remains whether minority candidates have had access to the groups that have significant political endorsements, and my conclusion is that they have not.

JUDGE GOLDBERG: In all counties?

THE WITNESS: In all counties in which elections---?

JUDGE GOLDBERG: In all of the counties that we have discussed.

THE WITNESS: Yes.

BY MR. GEORGE:

Q Dr. Cotrell, let me continue this line a bit. Did your investigation find a kind of two-level type of legislative politics in Texas, one that is rather sophisticated with continuing groups competing in much the same way of political parties and one rather unsophisticated in which the political process takes on its cast through and

people have access to political sources through churches, clubs, and the other kind of institutions that you find? In other words, whether one is a kind of semi-party system in a one-party state, and one is where there is a kind of continuing interest that has developed?

A Yes.

Q But I believe your response to Judge Goldberg was that in the sophisticated counties or in what we call sophisticated politics where you have two or at least one or two long-term groups, the minority members do not have access. Is that correct?

A That's what I said.

Q And in the unsophisticated counties they don't have access to the majority groups, churches, civic clubs and other methods of getting known and recognized in the majority group, that is, in the white or Anglo community. Is that correct?

A That is correct. You have testimony before this Court that in those situations there is widespread segregation or residual segregation, hence, in the associations that people usually deal in that most of the candidates short of a slate-making or officially endorsing agency, that you have the same patterns of segregation and racial prejudice holding here and, of course, this is reinforced by housing patterns.

Q That's the basic response to Judge Goldberg's question?

A Yes, I have tried to compare those two situations.

Q Now, some just basic matters here. First, let me ask you, was the Republican Party a viable competitor with the Democratic Party in any of these counties for legislative seats?

A Viable in terms -- and I have to---?

Q Did they win?

A No, not in my terms.

Q O. K. Did it ever seriously compete regularly?

A No.

Q So that the Democratic Party primary election and the runoff that follows it is the significant political event for Texas legislative politics. Is that correct?

A Yes, and the way this works then if the democratic primary is your only access to the legislative level, and you must run against in many of the counties majorities that are able to control that, then the majority and the party identification itself, the majority feature and the party identification itself in a one-party state becomes significant features in the multi-member district,

and the way it works to disenfranchise and to subvert minorities.

Q O. K., let me follow that with two brief questions or at least one brief question about the -- in Texas you point out that you have this racism exist in some counties. You have a one-party system, right? Is that correct?

A Yes.

Q Which is different than Marion County, Indiana, for example. You have an at-large election system. Is that correct?

A Yes.

Q You have an at-large election system without any geographic requirement that people live in a particular place. Is that correct?

A That is correct.

Q You have a place system. Is that correct?

(REPORTER'S NOTE: There was no audible response from the witness.)

Q Now, what is the effect -- you have to answer the place system question orally to the court.

A Yes.

Q O.K., does this place system,no geographic

requirement, living requirement, and the runoffs, majoritarian runoff system enhance the discriminatory effects of multi-member districts?

A Mr. George---.

JUDGE WOOD. Wait just a minute, Mr. George.

Let me ask you this, The reason for this line of questioning escapes me. Since when is another political party, such as the Democratic Party, in any manner restricted in its prejudice against another party? Is there anything constitutionally impermissible about the Democrats saying "I just don't like the Republican, and I'm going to try to beat him because he is a Republican?" What kind of constitutional guaranties are given to be sure that the Republicans do better?

MR. GEORGE: Well, let me put it this way, first of all, Your Honor. The Republican Party's interest in this lawsuit we talked about yesterday, the fact that we were sued as an election official of the State of Texas and as the chairman of the Republic Party has an interest in seeing that the election system in Texas is constitutional.

JUDGE WOOD: Don't you feel like the Democrat can legitimately discriminate against a Republican because he is a Republican?

MR. GEORGE: They cannot create election machinery through the laws of the State of Texas that does not provide a political minority with reasonable access to the political processes.

JUDGE GOLDBERG: Did you say political minorities?

MR. GEORGE: That's my position. I don't think it is necessary for this Court to deal with it.

JUDGE WOOD: Well, how do you reconcile the purpose of gerrymandering that the Democrats are engaged in allegedly in Texas to accomplish this precise result, and the Supreme Court has approved it? They can make it look like serpents. They can make it look like -- as long as it gets the one man-one vote in this thing, in this serpentine-looking district, I just don't see where, as long as the constitutional requirements of one man-one vote are met under the Douglas opinion, why is there any reason that the Democrats can't discriminate against the Republicans because they are Republicans and just fight them tooth and nail because they are Republican or vice versa?

MR. GEROGE: My position is very similar to the position taken by the Supreme Court in the

Wallace versus Ohio cases and the access to the ballot cases and the requirement for primary cases in that parties -- for example, Ohio had a system providing for an inordinate number of signatures on a petition before a name or a political party could appear on the ballot of that state. That kind of affirmative legislative action to prevent political parties to have a reasonable chance to win is the kind of activity that we have claimed that affects Republicans through the multi-member district system. We don't believe and this Court has held that we don't have any separate remedy available to us that is not available to the minority groups.

JUDGE WOOD: Are you asking this Court to redistrict the state in such a way as to give better representation to the Republicans because they are Republicans?

JUDGE GOLDBERG: No, he's saying that if we redistrict the state and give the minorities these benefits, he is the beneficiary of it, although he is not necessarily the constitutional beneficiary. Is that right?

MR. GEORGE: Exactly.

JUDGE WOOD: Is that what you're saying?

JUDGE GOLDBERG: Sure, that's what he's saying.

JUDGE WOOD: All right.

(LAUGHTER)

JUDGE WOOD: I still question where is your constitutional standing in this case.

MR. GEORGE: Well, first of all, we were sued as a public official of the State of Texas. Now, we were brought into this lawsuit just like the Democratic Party Chairman who decided not to take an active part in it, although pressing an active part in it the first time around.

JUDGE WOOD: All right, let's go. Thank you.

BY MR. GEORGE:

Q Well, finally, I was asking you about the place system, the majority runoff system and the no geographic requirement provision that this Court talked about in its Graves opinion. Those continue to exist in Texas, do they not?

A They do.

Q They exist in all these counties, do they not?

A They do.

Q And they enhance the discriminatory effect of the multi-member district, do they not?

A They do, and there is one final feature in ballot systems.

JUDGE GOLDBERG: What?

THE WITNESS: Well, the runoff which correlates with the majority system, gives you a second chance to take a look at your candidates.

MR. GEORGE: Yes, this was discussed by this Court previously.

All right, thank you very much.

JUDGE GOLDBERG: All right, Mr. Gladden.

MR. GLADDEN: Your Honor, we began this tour in Tarrant County. If perhaps we might end it there---.

JUDGE GOLDBERG: I hope you're on the outskirts.

MR. GLADDEN: I am on the outskirts and will try to be very, very brief.

CROSS-EXAMINATION

BY MR. GLADDEN:

Q Dr. Cotrell, you were present, were you not, at the time Mrs. Fischer testified relative to the ethnic and economic layout of Tarrant County?

A Yes, I was.

Q And District 32 particularly?

A Yes, I was.

Q And you have had an opportunity to examine the summaries that were presented the Court, as well as the evidence in support of those summaries, have you not?

A Yes, I have.

Q Do you have an opinion based upon the testimony of Mrs. Fischer, the deposition testimony and the summaries in evidence and the exhibits that are in evidence as to whether or not there has been an effective suppression of minority voting rights in Tarrant County or in District 32?

A Yes, I do. The multi-member district in Tarrant County works to cancel or minimize minority voting strength.

Q And that is particularly so when slating

[656]

processes are used to eliminate participation?

A Yes.

Q Now then, I believe that you in response to Judge Goldberg's question told the Court that your primary concern in your evalauation was along ethnic or racial suppression of rights. Is that not correct?

A Yes.

Q And you told the Court that you were not suggesting to the Court at this point, though it was important, you felt there was a constitutional prohibition against participation under socio-economic basis. Is that correct?

A There is, as I understand it, no constitutional prohibition. My own personal feelings may be something else.

Q In that connection you are aware that the Escalante case is based on both ethnic and economic contentions, are you not?

A Yes, I am.

Q In connection with the Tarrant County or in District 32 situation, you were present at the time that Mr. Dillard testified, were you not?

A Yes, I was.

Q And his testimony that no one in his southeast quadrant of the county had ever been elected and that in order to run for office it would be necessary to obtain

[657]

financing outside the economic area in which he resided in order to run district-wide, were you not?

A Yes.

Q You were also present when Mr. Webber testified, were you not?

A Yes, I was.

Q And his testimony relative to the $27,000.00 he spent, all but $1,400.00 of it was either personal money or outside the resources of his community?

A Yes.

Q Do you have an opinion, Dr. Cotrell, as to whether or not the economics of a multi-member district wherein there are nine races at large would have the effect of, based upon the evidence in the record, suppressing the economic minority or the poor?

A I have not made the study from this point of view, but my opinion would be that it would, and I think that impact studies of multi-member versus single-member districts after single-member districts in Bexar and Dallas and so on exist may, in fact, I feel certain will bear this out.

Q One further question in connection with the demeanor and the relationship between ethnic minorities who are elected from single-member districts, such as Mr. Reyes, and ethnic minorities who have run significant but

unsuccessful races in larger multi-member districts, such as Mr. Webber, who had the $27,000.00 campaign, Mr. Barrientos here in Travis County, the projection of the economic backgrounds or immediate economic backgrounds make a difference in the Anglo attitudes toward minority candidates, do they not?

A Mr. Gladden, I would think that questions of class in attitude structures would make a difference. I have not -- my own opinion is they would. I have not, however, conducted the study from the standpoint of looking for, as it were, reference or indicators of class in elections, but it would make a difference in my opinion.

Q You did observe Mr. Barrientos and Mr. Webber testify, did you not?

A Yes.

Q They did project the social and economic attitudes of the white majority as compared to the traditional low income ethnic minorities that you have been here testifying about, did they not?

A In an interview with Mr. Barrientos he did suggest that this was the case, yes, and you're speaking of projection. That's more difficult to measure. An anecdote he had, however, was imformative here, if it is permissible, and that is that---.

MR. YORK: Your Honor, Mr. Barrientos

testified at great length, and I would object to this witness giving some hearsay testimony about what the witness who was here two days ago---.

JUDGE GOLDBERG: Yes, I think you're going to have to ask him to give you his expert opinion on the facts that Mr. Barrientos testified. Is that what you're trying to do?

Q Yes, based upon Mr. Barrientos' testimony of a college education and being in the public relations business between ethnic minority and the Anglo community, and based upon Mr. Webber's testimony as president of a corporation and spent significant sums of his own money, do you have an opinion as to whether or not they are typical based upon your awareness of these districts from which they came as to whether or not they are typical of the economic levels of the communities of the ethnic minority communities.

A No, you could not say they were typical.

Q Do you have an opinion as to whether or not their lack of typicality had a significant bearing upon their relative success in running in a multi-member district wherein there is a white majority?

A I would suspect from other studies that the so-called Anglo-ization of minority candidates would have an effect. I did not, however, do any survey work that would demonstrate this in those particular races.

[660]

MR. GLADDEN: I believe that's all. Thank you very much, Your Honor.

MR. BONNER: I have only one question.

JUDGE GOLDBERG: All right.

CROSS-EXAMINATION

BY MR. BONNER:

Q Dr. Cotrell, in arriving at your conclusion ---.

JUDGE WOOD: You have to state your name.

MR. BONNER: Norman Bonner for the Gaskin Plaintiffs.

Q In arriving at your conclusion that the multi-member district in legislative District 32 discriminates against the black and brown communities or the black and brown voters, did you have the benefit of a visit to Tarrant County in addition to the exhibits presented here?

A Yes, I did.

MR. BONNER: Thank you.

JUDGE GOLDBERG: Do Plaintiffs and Intervenors or anyone else have anything to say? Mr. York?

MR. YORK: If I might make a suggestion to

[661]

the Court. This witness' testimony has been fairly lengthy. I believe we could substantially shorten our cross-examination if we had the opportunity to spend a little time at lunch and come back perhaps 15 minutes earlier than we otherwise would have, unless the Court has plans.

JUDGE GOLDBERG: All right, at 1:15. Now, how long do you think it is going to take?

MR. YORK: I would think about an hour, Your Honor.

JUDGE GOLDBERG: Everything you've got?

MR. YORK: No, sir, I was thinking of an hour in terms of this witness or perhaps 45 minutes and then about another 45 minutes.

JUDGE WOOD: How many witnesses do you have remaining?

MR. YORK: We have two, Your Honor.

JUDGE WOOD: Are all the Plaintiffs and Intervenors, are all their witnesses now concluded with this witness?

MR. RICHARDS: Yes, Your Honor.

JUDGE WOOD: So the only witnesses remaining, Mr. York, will be your cross-examination of this witness, and you have two witnesses. How long will those witnesses take?

MR. YORK: One is Representative DeWitt Hale that we talked to Counsel about, and the other is Mr. Wright. They're both of the same general type, as the Court can see. I wouldn't think they would run but about 20 minutes on direct and however much cross.

JUDGE GOLDBERG: Let's do our best to get this thing buttoned up by 3:00.

MR. YORK: Certainly will, Your Honor.

JUDGE GOLDBERG: Let's make that our objective, a laudable one.

Stand in recess until 1:15

(REPORTER'S NOTE: The Court then, at 11:45 o'clock, A.M., December 5, 1973, recessed until 1:15 o'clock P.M., the same day, at which time it reconvened.)

December 5, 1973
1:15 PM,

JUDGE GOLDBERG: Mr. York, are you back?

MR. YORK: Yes, sir. I'd like to thank the Court for the indulgence of stopping a few minutes early.

JUDGE GOLDBERG: All of you I'd like to say have been very cooperative and the Court is very appreciative of all matters connected with this.

MR. YORK: We've been very appreciative of this multi-member Court's responsiveness so far, Your Honor.

JUDGE GOLDBERG: Have at it.

CROSS EXAMINATION,

By Mr. York:

Q Dr. Cotrell, when did you begin your study or your tour of Texas relating to the testimony you have given?

A I began in late September or early October.

Q And by which of the particular groups that are here as Plaintiffs or intervenors were you employed, or were you employed by all of them?

A By all of them.

Q All right, including the Republicans?

A Yes.

Q All right. How much time, if we can take it county by county -- you told us about spending two days out in

Lubbock and I think two in El Paso.

A Yes.

Q Now, those towns are counties of course of somewhat different sized in population, are they not?

A Yes, they are.

Q You spent equal time in each?

A Yes.

Q How much time did you spend in Nueces County?

A Three days.

Q All right. And in McLennan County?

A A day-and-a-half.

Q And in Travis County?

A A day-and-a-half.

Q Jefferson County?

A Two days.

Q Have I asked you about Tarrant County?

A Two days.

Q All right. What does that leave?

A It must leave Galveston.

Q Galveston. And Hidalgo.

A Hidalgo, no contact this time seriously. Physical contact that it.

Q You spent three days in Galveston?

A Yes.

Q And during that three days, you were unable to come

up with any evidence that multi-member districts as used in Galveston operate to exclude minorities from the elective process?

A According to the interviews, etc, no.

Q All right. And in Hidalgo, you simply did not go to Hidalgo County at all?

A That's correct.

Q Would I take it from your earlier answer that at some time in the past you have been to Hidalgo County?

A Yes. Maybe I didn't make this clear. I taught for a year at Texas A&I University in Kingsville. And at that time I had occasion to spend some time in a number of south Texas cities.

Q Well now, Kingsville of course is about 90 miles or 120 miles from Edinburg?

A Yes, more like 100 some miles.

Q And Edinburg is the County seat of Hidalgo County?

A Yes.

Q You never made any trip to Hidalgo County specifically for the purpose of making a study for this litigation or other litigations. This is just a general perception, isn't it?

A A general perception, yes.

Q From having lived for awhile 120 miles from Hildalgo County?

A That's correct.

Q All right. It seems to me that the writings you have done, if I have interpreted what's in the record correctly, have been mostly in the area of the Mexican-American minority. Would that be a fair characterization as opposed to the black minority?

A The work that I have done in terms of attitude, research and so on could be generally characterized like that, yes.

Q All right. And you agree that there are differences between the needs and particular problems of the black community as opposed to the Mexican-American community?

A Most emphatically.

Q All right. You have told us then, for instance in Nueces County, how many representatives have been elected there of Mexican-American ancestry since reconstruction?

A That's in the record several times. Two according to my study. Two according to my study have been elected.

Q In Nueces County?

A In Nueces County, yes. Elected.

Q And who were they?

A They were Mr. Carlos Truan who we have in Court and they were Mr. Tony Bornillo in 1964.

Q And that's since reconstruction?

A Yes.

Q If we went back to the year 1600 the answer would be the same, or if we went to the year one, the answer would be the same, right?

A Yes.

Q But if we look at Nueces County in the last 10 years, would you agree that only once only in one session of the legislature in the last 10 years that Nueces County has been without at least one Mexican-American in it's legislative delegation.

A That's correct, Mr. York.

Q I assume that if since reconstruction there had always been Mexican-Americans in the delegation, but in the last ten years for some reason unbeknownst to man they had suddenly been removed from the delegation, I would assume that your position would be "Well, we can't look back to the past, we've got to see what's going on now", as far as how they are being discriminated against. Would that be true?

A Yes, it would be. I would like to point out something however.

Q All right. Point away.

A You do have Mexican-American representation in the State Legislative delegation, but the electorial analysis combined with a racial polarization demonstrates that when that Mexican-American representative Mr. Carlos Truan must face an electorial majority in the county, the chances of his

remaining, if I may say in predictions, I believe he corroborates this, the chances of a Mexican-American remaining with racial polarization existing in a white electorial majority are very, very slight.

Q Well, let's talk about that for a minute. You have given an illustration that Representative Truan won by a handy margin in 1970 and by a reduced margin in 1972. And I think you have characterized that as evidence of increased polarization in the county.

A I'm sorry, Mr. York, I didn't say that. I said that in this race of Mr. Truan against Mr. Smith in 1968, the electorial majority was substantial. However, in the race in 1972, Mr. Truan won against Mr. Coleman who has been characterized as an incumbent and not a particularly well known individual in Nueces County by a mere 3,000 votes. This flies in the face of every study I have ever seen concerning incumbents and their chances of returning.

The Schlessinger Study shows that an incumbent's chances of returning after he has won his first election are substantial. So, one must look carefully at that '72 race. We have to look carefully at Mr. Truan. I think you heard his testimony here yesterday. And you have to look at the effect of the school case in Nueces County and the stances that Mr. Truan took as far as representing the particularized needs of minorities and the more visible recognition he has

received. It's on that basis that I make my conclusions and make my predictions, Mr. York.

Q Let me ask you, whose study is it about incumbents?

A The Schlessinger Study concerning incumbency in general.

Q What if the Schlessinger Study and Standards had been applied to Texas as a whole in 1972, but nobody told Mr. Schlessinger about Sharpstown? Do you think that might throw a kink in his theory? Would he be a little bit amazed that his theory wasn't working just right?

A Most emphatically. That's why I think you must look at Mr. Truan's background for something that was charge in corruption or something connecting Mr. Truan in the scandal. Mr. Truan however in the year they were sweeping the people out of office who had been associated with the scandal, was a member of, I understand, the dirty 30 which was opposed to the scandal.

Q Well, let me make one thing clear, if it's not clear to you. No one in his right mind that I know of has suggested that Carlos Truan was connected top, side or bottom with the Sharpstown scandal.

A I realize that.

Q I know of no such information. But my point is that he was in a race down there which would have to be looked at on those issues and not on somebody elses-- Where does

Mr. Schlessinger live?

A Mr. Schlessinger probably I think lives in Cambridge.

Q And he probably hasn't even been as close to Nueces County as Kingsville.

A That's correct.

Q All right. Now, do you think, legitimate or not, do you think that a public dispute with the Bishop of Corpus Christi might have an effect on the outcome of the race in that area?

A . Could. Yes, it could.

Q Well, it would just be inconceivable that it wouldn't have some effect in an area that's 40 percent Mexican-American, wouldn't it?

A Yes.

Q What do you know about that particular dispute?

A Very little.

Q Any?

A Very little. I know it occurred, I don't know the details of it.

Q You don't have any way of knowing how that impacted on the voters in Nueces County, do you?

A Mr. York, was this a Catholic Bishop?

Q I think he was a Catholic Bishop.

A Then the effect--again, my view would be, my opinion would be the effect then should have hurt him dras-

tically in the Mexican-American precinct, not the south of Weber Road precinct.

Q How on earth, now really being fair with both sides and being fair with the Court, how on earth could you come to a conclusion like that without knowing what the dispute was?

A If it is --

Q Suppose the Bishop was mad at the other candidate.

A Well, it's based on this view, based on the view of the Mexican-American religious affiliations and the affect that has on the -- I was looking for the loss of support among the Mexican-Americans. And I cannot comment on the religious demonations of those people south of Weber Road.

Q Would you concede even this much, would you concede that it's a possibility that you are wrong on your assumption and that the factors which caused Representative Truan to draw a lesser majority in 1972 were related only an legitimately to the issues involved in the race? Is that a possibility?

A I would concede there is an alternative explanation, but the voting analysis upholds a racial polarization which coincides with introduction of racial issues in Corpus Christi.

Q Who was the other fellow that ran?

A In 1972?

Q Yes.

A Mr. Coleman I think it was.

Q How did he come across on TV?

A I don't know.

Q Did he have a pretty good radio voice?

A I don't know that.

Q You have made a statement and I don't -- I assume it was a slip, it was quite possibly a slip when you were talking about Mr. Price I believe in Beaumont or in Jefferson County.

A In Jefferson County, yes.

Q Do you recall calling him Mr. Black at one time?

A That's correct.

Q Do you kind of think of these things in black versus white and black versus brown terms as opposed to people?

A Mr. York, I was asked to conduct a study concerning the -- One of the areas of concentration was the study of racial polarization or lack thereof in some select elections and the overall impact that would have concerning the evidence of racial prejudice in multi-member counties. Insofar as I was asked to do that, yes, one of the things I had in mind was black, white, brown.

Q All right. Do you know, for instance in Hidalgo County what the number, if we want to use this magic time of reconstruction, what the number of Mexican-American public officials has been since reconstruction.

A I do not. It has been significant however.

Q All right. As I understand it, you have after studying and getting your PHD and after spending this time in studying these counties, you have come to the conclusion that there is a tendency among Anglos to vote for Anglos and a tendency among Mexican-Americans to vote for Mexican-Americans, and a tendency among Mexican-Americans when there are two Mexican-Americans in the race to divide their vote and a tendency when there are no Mexican-Americans, to vote for the most popular Anglo.

A The latter conclusion is correct in most cases.

Q Did that conclusion come to you fairly late in life, or have you held that view --

A Mr. York, I have taught Political Science at the College level for 12 years. It is that conclusion that could be formulated in terms of a hypothesis and one would expect to find that in Texas. So, that was the way in which that conclusion as it were came to me. Other voting studies demonstrate the same thing.

Q Would you expect that all other things being equal, the Chinese would likely vote for Chinese and Anglos would vote for Anglos and that two Chinese in a race would likely divide the Chinese community and if there were no Chinese in the race, that the most popular other candidate might get the vote?

A I would think that would depend upon the particular

situation in the area and the degree of racial polarization and the awareness which exists in any single election contest.

Q All right. That's kind of a press conference answer, but we will -- Would you concede that there is a degree to which a tendency of that sort might not rise to the level of being what we might label as prejudice? In other words, if for instance a woman would be more inclined to vote for a woman candidate, all other things be equal, would you be able to concede that to some degree that that might not have to be labeled just as blind prejudice, but just as kind of a okay sort of human preference.

A Mr. York, there is no suggestion here that the voting surveys or any of the electorial analysis undertaken in this study would get into the intent of the voters involved. However, the suggestion is that when this behavorial fact is placed in the context of a multi-member district, it acts to conspire and hints to cancel and minimize the voting impact of Mexican-American and black minorities.

Q You characterize it as a conspiracy.

A In a non-legal sense, it's an aggregate of factors. It tends to converge, to minimize and cancel the participating impact of Mexican-Americans and blacks.

Q Well now, isn't it a fact that in your attitudional studies, would you believe that most Anglos would think that a candidate who was clearly indorsed and accepted by the

Mexican-American community would likely be a "liberal candidate?

A Not necessarily. There have been a multitude of elections. I couldn't make that conclusion.

Q You really wouldn't be ready to conclude that the Anglo community would likely think that the Mexican-American candidate was probably a, in the context that we use the terms, liberal as opposed to a conservative candidate.

A No. If I understand your question right, what is involved here is two different kinds of cultural experience. In fact, in the case of the Anglo, possibly cultural experiences versus cultural experiences. And what's involved here is the identification of many Mexican-American candidates as representing the particularized and cultural background of that group. And the same could be said for blacks. And that's the phenomenon involved. I don't think liberal and conservative is the issue here.

Q Well, you wouldn't agree with the former State Representative Tom Moore from Waco then when he says in his deposition that he believes that the division in McLennan County is not along black-white lines, but along liberal and conservative lines. Do you disagree with the former Representative?

A If I'm not mistaken about Representative Tom Moore's deposition, did he not also say that the chances of a black person being elected in McLennan County are impossible.

Q Well, lets just go turn about. If you will answer my questions first, then maybe we can come back to yours.

MR. RICHARDS: His deposition is in evidence. And I suppose if he wants to confront the witness with it and let him read it, and not test his recollection about the deposition, --

JUDGE WOOD: Well, don't answer the question by asking another question.

THE WITNESS: Would you repeat the question.

MR. YORK: I'll ask you, if I can find the page reference, I'll just read it to you directly.

THE WITNESS: Okay.

JUDGE GOLDBERG: It would would speed it up if you would summarize what he says he thinks Mr. Moore testified. We could spend hours trying to find it in the deposition.

Q (By Mr. York): I submit to you that Representative Moore, and I'm sure you are aware from talking to the lawyers in the case that the Plaintiffs attempted to get Mr. Moore to give a deposition for them and he refused and gave one for our side.

MR. RICHARDS: That's not true. If we are going to do this by cross examination, let's at least represent the facts accurately. I assume since I was the plaintiff's attorney in Waco, I speak the facts, and that's not true.

JUDGE GOLDBERG: Well, Mr. York, in the interest

of time if you want to attempt to summarize what the deposition says, I think that's all right. But if you can't be accurate about it, then we will have to take the time and look it up.

Q (By Mr. York:) Well, I believe it's accurate to say that Representative Moore did make that statement, that his opinion of the division in that county were along conservative-liberal lines as opposed to black versus white lines.

And if I understood your answer a while ago, you agreed with that but then said he had also said something else. If that true?

A That was my understanding, Mr. York, yes.

Q All right. Of course as you well know, Mr. Moore was a member of what has been referred to as the dirty 30 Legislatores in Texas who were of a composite group but I guess all of us would concede and agree that Tom Moore was viewed as being a liberal, or would you agree with that?

A I'm not in command of his voting records. I would take your word for it.

Q But, I mean in fairness wouldn't you have to give some credence to an opinion held by a man who had, as you say, offered himself? Do candidates ever just run, or do they always offer themselves for public office?

A To hear the candidate tell it, he offers himself,

However, there are two different situations of offering in this case. One would be a situation which has been called in this courtroom slating. Or I would say indorsing by visible and significant political groups in the County. And the other situation would be one wherein a candidate must, as it were, go to social groups for his identification, support, feedback and so on.

Q I suppose that you would, even being in the academic community, that you don't totally fail to give credence to the opinions of those who have actually gone out and run and succeeded in being elected from these areas that you have visited only briefly. You don't totally discount their opinion, do you?

A I think you are saying something that I didn't say at all. Anyone who has residence in an area has a degree of credibility.

Q Well, would you concede then that a resident who had successfully run from there is a liberal candidate and then who made the statement that the division in McLennan County was along liberal-conservative lines as opposed to black-white lines would be entitled to more credence than your conclusion based on a two day visit?

A No, I wouldn't reach that conclusion for reasons I have already indicated.

Q All right. Now, you are present in Court when all

of the El Paso depositions, or all of the El Paso testimony was presented, were you not?

A Yes, I was.

Q Were you impressed by the fact that the only Mexican-American offered by either side as a witness was Mr. Morales who was called as a witness by us, a 23 year old man who had driven 600 miles in his own car to be down here to give his view to this Court and who concluded that he didn't want single member districts in El Paso County and that there was good sound reasons in his view after having worked there for a long time to believe that the interests of the Mexican-American in the community were greater served and better served by the present multi-member system?

A The question is --

Q What do you think about that?

A What do I think about Mr. Morales coming 600 miles by car and offering his opinion that he didn't want multi-member districts?

Q Does it impress you that he's the only Mexican-American who has testified in the whole case from El Paso?

A Well, in my opinion I was impressed by the fact that he had come 600 miles. But in my interviews with eight to ten Mexican-Americans in El Paso, they all reached different conclusions on Mr. Morales.

Q Where are they now?

A They are in El Paso.

Q All right. Not subject to anybody's cross examination?

A That's true.

Q All right. Mr. Morales -- you sat through the whole case?

A Yes.

Q My feeling about Mr. Morales was that his was the most vehement, not in terms of the substance of what he said, but he got the most excited and he was the most sort of enthusiastic about his testimony of any of the witnesses who've been on the witness stand. Would you agree with that?

A We are speaking of projections. I really couldn't agree with it, but it would be a question of my perception as opposed to yours.

Q That's a question that runs throughout your testimony, isn't it?

A Of my perception?

Q Versus mine or the Courts or the other lawyers or the people that elect the people that go to the State House in Austin. It's just your perception versus theirs a lot of this time, isn't it?

A Mr. York, if you are referring to opinions of how a person on this witness stand appeared to me sitting in the back of the room as opposed to you, I would agree. If you

are suggesting that the conclusions which have been reached after the study are simply matters of conjecture and evidence that can be thrown to the wind, I couldn't agree.

Q Would you agree that well motivated experts in your field may well disagree with you as to the conclusions that you have stated to the court.

A I would agree that that is possible. I know of none nor have seen any in this Court.

Q All right. Of course of the nine counties that the Plaintiffs started the trial on in the case, as I understand it, they have now confessed that they can't prove any thing in Hidalgo County and Galveston County as far as multi-member districts, how would you as the Plaintiffs expert rank the other counties in terms of the degree of strength of proof that a multi-member system discriminates against authorities?

A Mr. York, I have tried to paint a picture for the purposes of understanding, for the Court's purposes and so on of different sets of situations wherein the legal frame work of multi-member districts tends to submerge the voting effectiveness of minorities. And I don't think that a ranking of the sort that you ask for is in order.

Q Well, in order in whose view? Yours or the Courts or mine or who are you speaking for?

A Well, it would depend upon the factors of severity.

I would think however in my own testimony I was deeply impressed by the evidence of counties such as Jefferson, such as Lubbock, such as McLellan and so on. But --

Q Where is McLellan County? I missed that somewhere.

A Waco.

Q McLellan County?

A But as far as severity goes, that is not a proper conclusion that can be made here.

Q Well --

A I was asked to see whether or not multi-member districts worked adverse effects in these counties. And I concluded that in seven of the nine, they indeed did. And I concluded that the multi-member district per se in the other two counties did not. That's what I speak to.

Q Well, you agree, or I assume you agree from what you said earlier that it is a continual that we are talking about with no magic breakoff point on population, history and all of that, that these counties don't stand all absolutely on the same footing. That the problems you see in Dallas with it's large multi-member district are not the same problems you see in Hidalgo with the two member multi-member districts. Do you agree with that?

A They stand on this footing, they stand in terms of adversely affecting minority participation and voting strength. They stand equally in my view in terms of the kind

and nature of discrimination in these counties, in terms of the particular incidences, in terms of particular elections. There is a great wide difference. I really hesitate to give some rank order of desperation and frusteration and alienation in these counties vis-a-vis the minority groups. I don't think that's appropriate before this Court.

Q Well, did you think it was appropriate before this Court before lunch when you did just exactly that with regard to Jefferson and Dallas?

A I suggested that I was deeply impressed by the plight of the people there. I think that the elections statistics and the kind of segregation which existed there and still exists and the racial polarization speaks for itself. I didn't understand myself to be giving a ranking which would say that this county is really okay while this one is not. Now, the two counties which I'm not defending as to the adverse effects of multi-member districts I have already stated. Those were Hidalgo and Galveston, Mr. York.

Q You told the Court that Jefferson was worse for minorities than Dallas, didn't you?

A Well, the "worse" in that context referred to the kinds of incidences, fire bombings as late as 1968. In 1965 the public library was just desegregated. These kinds of things impressed me.

Q All right. Now, you could look into Nueces County

and find out if they had had any fire bombings or when they opened their library and tell the Court whether you think Nueces is say worse than Tarrant or better than Tarrant or just as bad as Tarrant.

A If there are similar indicators, I could render opinions. But I'm not sure it would be helpful for the Court's conclusion as to whether or not a particular multi-member district in a particular county submerges a minority.

Q All right. You are just going to leave it all on an equal footing?

A I mean my opinion would not be that helpful. There is other evidence in fact, piles of other evidence substantuating the official racial segregation and the unofficial segregation and discrimination in those counties.

Q You just won't tell the Court among the seven which is the worse and which is the best?

A Mr. York, you are asking the questions. I'm not responding to you.

Q I agree with that. Thank you. Out in Lubbock County, you made the statement I believe that somewhere you heard that there was an allegation that anytime a Mexican-American ran well, that the precinct lines were changed in the County Commissioners precincts.

A Well, no. I don't think I made myself understood to you. I said that there was an allegation that I heard in

the interviews that in the County Commissioners race, I believe it was the 1966 race, that this had happened.

Q Then it was an allegation that the precinct lines had been changed eight or nine years ago as opposed to an allegation that they were just changed at any time somebody came close.

A I was on the stand for two hours. I don't recall saying that anytime a Mexican-American in Lubbock County came close to making a good showing that these lines were changed.

Q Of course you don't know whether they were changed in 1966 or not.

A I listened to an interview and I think I sufficiently qualified that, Mr. York.

Q Somebody told you that, right?

A Yes.

Q Okay. Did you read in Mr. Sowder's deposition, the former Democratic Committee Chairman from Lubbock that the Commissioners race which you've been talking about, the one in 1972 I believe --

A Yes.

Q Was one in which the Mexican-American was running from Lubbock and that the Anglo on the other side ran from the little community of Idalou.

A I don't recall that specific portion of Mr. Sowder's deposition, but --

Q You remember that that happened, and his view of it was that that commissioner from that precinct had always lived in Idalou. And everybody in Lubbock County knew that and that actually the Mexican-American living in Lubbock was campaigned against by other Mexican-Americans just because that's the way they've done it generally, that that commissioner lived in Idalou, and that's what turned the race more than anything else was the fact that they were changing something that had been there historically.

A This is the Chicano race?

Q I believe that's the one.

MR. KORBEL: Counsel is confusing two races. He's talking about the '68 race and the other race was in 1970 if I'm not mistaken. The Idalou race was in 1968.

JUDGE GOLDBERG: Well, we will read the record.

Q (By Mr. York:) Let's talk about the Idalou race. That's the one I want to talk about for a little bit.

A This is what I did in the electorial analysis, that I think shows convincingly that Lubbock in terms of attitude studies, in terms of behavior, in terms of voting behavior and electorial analysis is a frozen situation. I looked at that race, and you find the Mexican-American boxes (I could recall them for you, but we won't take the Court's time) running four or five and I think as high as eight to one. And you find in the predominately white areas of Lubbock, you

find the opposite. That's what I based my opinion on.

JUDGE WOOD: Well, he didn't ask you that question. He asked you if you were familiar with the situation.

THE WITNESS: I had suggested to him, Your Honor, that I was not familiar with that portion of Mr. Sowder's deposition.

JUDGE WOOD: That's all he asked you.

Q (By Mr. York:) Now, let's talk about Lubbock for a minute as being a county which has a Mexican-American population of about what? 12 to 15 percent?

A I think it is 16 percent.

Q 16 percent?

A Yeah.

Q And generally as you have given your testimony, as I have perceived it, you have seen polarization as a bad thing, as a bad indicator in a county.

A I use racial polarization to demonstrate in conjunction with other factors, that a Mexican-American or a black candidate faces a wall of voter hostility.

Q You have characterized it repeatedly throughout your testimony as saying that Mexican-Americans would vote for other Mexican-Americans, but the Anglo would vote against Mexican-Americans.

A In terms of the general findings, I would stand by that conclusion.

Q Another way of saying it might be that Mexican-Americans would vote for Mexican-Americans and Anglos for Anglos as opposed to against Mexican-Americans. Would that be true?

Let's take Lubbock and suppose we cut Lubbock into two districts and we put this entire 16 percent Mexican-Americans into one district, you of course have conceded that that would be no guarantee to them that they could elect a representative, but you have indicated that that would give them a better chance to influence at least the outcome or the selection of that representative. Right?

A Yes, I have said that.

Q And to do that, that Mexican-American community would only -- they are 16 percent --

A And seven percent black population.

Q Seven percent black?

A Yes, sir.

Q Would have to stay pretty polarized even in their single member district if they were going to expect to exert very much influence as a cohesive group, wouldn't they? Wouldn't you encourage them to by golly stay together and let's push hard together and everybody get behind the same fellow.

A Could I respond to that?

Q That's the procedure, sure.

A Yes, of course, Mr. York. Yes. And in fact I would suggest that with this 25 percent minority population or the 16 percent or whatever percentage we are dealing with, a smaller district which subtracts the number of 75,000, makes the district 75,000, allows the Mexican-American and black voters to more effectively influence their legislator, and to do this of course through elections. That's what I understand democratic politics to be about.

Q But, they would need to stay together, won't they, even in that single member district.

A Yes, they would. And given a long history, as you well know, of racial discrimination and subjection and deference in this state, I can only conclude that that's a rational way of protecting particularized needs.

Q I don't quarrel with it, but I'm just saying that you wind up with a polarization which every way you go.

A In the particular Lubbock situation, I doubt that you would have as much polarization in the single member district as you would in a multi-member district. And the adverse effects, the adverse effects of the multi-member districts encourage, not discourage, encourage racial hostility in voting.

Q I understand that that's your position.

A Yes.

Q But your position, if you could fix the whole state

the way that you decide it should be, you would still have people polarized one against the other, race by race.

A No. I don't think we've gotten into what I consider to be the criteria or standards underlying what the single member district should encompass.

Q Well.

A I do take the position that single member districts are a remedy.

Q Well, one of the factors that one would need to take into account in evaluating the testimony of any expert such as yourself would be to know what preconceived notions the expert went into the study with. Is that true?

A Most definitely.

Q And you have already advised the Court that you've gone into the study, not agreeing with the United States Supreme Court when it says that multi-member districts are not unconstitutional per se.

A No, That would be a legal question, Mr. York. I had thought that multi-member districts would work the same discriminatory effects. But I found in the case of Hidalgo and Galveston that this in no stretch of the imagination could be said.

Q You not even by any stretch of the imagination could Hidago or Galveston be said to be discriminatory by their multi-member districts?

A Well, I stand by what I said.

Q All right. Let me ask you just one or two final questions. You are of course aware that in Tarrant County when Mr. Webber ran, Bobby Webber whom you saw testify that he almost won his race. He missed it by one percent in the run-off.

MR. GLADDEN: If the Court please, I believe his testimony was seven or eight percent.

JUDGE GOLDBERG: The record will tell. He missed it by a percentage point. Go ahead.

MR. YORK: By eight percentage points?

JUDGE GOLDBERG: No, by a percentage point.

MR. YORK: Do you remember the figures of 43,000 versus 42,000?

MR. RICHARDS: If your Honor please, I think Mr. York has confused two races. The Travis County race and the Tarrant County race.

Q (By Mr. York:) Well, I won't belabor the exact statistics, but in any event, Mr. Webber's race was a very close race?

A It was.

Q And Mr. Webber's ethinic race, the black race, is a very small, relatively small percentage of Tarrant County.

A That's true.

Q And running county wide, that has got to indicate

that that particular race didn't polarize too badly, doesn't it?

A What you find on the Webber race is first a racial polarization but not to the degree that you would find it in other races. But you have to examine Mr. Webber more closely. This was a well financed, I believe $27,000 or $28,000 campaign. Mr. Webber had received indorsement of organized labor as I understand it in Tarrant County. And we are speaking in all of these counties -- this is what's amazing -- you are speaking of a close race or an almost. The fact is, Mr. York, that Mr. Webber lost.

Q Well, we are all aware of that. And none have been elected from Tarrant County since reconstruction. We are aware of that. Or since the earth was created, we are all aware of that. But if we took the last five years in Tarrant County and look at what might happen to Mr. Webber if he ran the next time, having some name identification and having some identification before the public and having come that close the last time and looking at now and what has happened recently instead of the dim distant past, don't you think he might just by golly get elected the next time if he ran?

A No I don't, Mr. York.

Q You don't think he would come up that three or four percentage points?

A It might be with that kind of familiarity that he

would receive even less support.

Q Well, why would it be if we are going to get into the area of mights, that you won't give me a might that he might win but you will go the might that he might get beat worse?

A Well, I offer an opinion on it based on what we have placed in evidence in the electorial analysis, and that's my conclusion.

Q All right. Now, you made a statement in regard to talking about both Mr. Webber and Mr. Barrientos in answer to Mr. Gladden's question that neither one of them represented more or less traditional something, I'm not sure just how it was put, but the thrust that I took from it was that they weren't what someone would think of was typical blacks or typical browns. That may be too broad a brush to paint it with, but was that the thrust that you took?

A No. As I understood Mr. Gladden's question, it referred to whether or not these people in socio-economic terms, particularly economic terms were like the great overwhelming majority of their fellow ethnic group members in the census track we've been talking about. And Mr. Webber as I understand it is a very successful businessman. And Mr.Barrientos is a very active civic and governmental consultant.

Q Well, is that a bad thing? Would you say to the

Mexican-Americans or to the Blacks that they shouldn't have that kind of candidates out in front, that they should have some other kind?

A Well no, Mr. York. I would not render a judgment on what these communities, what people these communities would select. If they decided to select a white person that's the communities prerogative.

Q Well, is there any significant at all to the fact that Mr. Webber or Mr. Barrientos were different in some respects than a great number of their fellow blacks or fellow Mexican-Americans?

A I think the only significance is that -- well, as I said in my testimony Mr. York I did not do any kind of survey research on this. But the significance is that so-called anglosized minority group members are those which come closer to meeting the white majority points of view. And I think this then demonstrates, at least to me it does, what's involved in the prejudicial aspects of voting in a multi-member district.

Q Well, what about Mr. Paul Ragsdale, the distinguished representative from Dallas? Would you put him in the same general catagory as Mr. Barrientos and Mr. Webber in terms of being a bright sort of successful articulate guy who might not be like everybody else in the black or brown community?

A Alike in what sense? I don't know Mr. Ragsdale's

income. I don't know a number of things about his biology to allow me to answer that question.

Q When you get down to talking about those kinds of issues, about Mr. Webber and Mr. Barrientos why they won or why they lost by one or two percentage points, that's just getting into the realm of just sheer speculation, isn't it.

A I offered my opinion on it. I don't have any studies in those particular areas.

MR. YORK: Thank you, sir.

CROSS EXAMINATION,

By Mr. Korbel:

Q Just a couple of questions, Your Honor. George Korbel representing the Plaintiffs Moreno, et al. Dr. Cotrell, I think there some confusion. Do you have some prior knowledge of Hidalgo County because of some other litigation you've been involved in concerning Hidalgo County?

A That's true. I was involved in litigation concerning the degree of Spanish influence, Mexican-American influence, Spanish language and so on in Hidalgo County in the so-called Trujillo case.

Q And that was this year, is that correct?

A Yes, Sir.

Q So, you feel you didn't have to go to Hidalgo County to find out all of these things about the elections?

A That's true.

Q Dr. Cotrell, one more question. In the trial of the Graves case, you termed Bexar County, the candidate selection process as being anarchaic. With the exception of Tarrant County, would you so characterize all of the counties which we have before the Court today?

A I think I responded to one of the Judges questions earlier which suggested that there are visible endorsing groups in Jefferson and Tarrant County. And I did characterize the rest of the counties like San Antonio.

MR. KORBEL: Thank you, Your Honor. That's all we have.

CROSS EXAMINATION,

By Mr. George:

Q I have one or two brief questions. Doctor, let me ask you something that is not very well developed here. It is your opinion that Galveston County does not operate -- the multi-member district in Galveston County does not operate per se to prevent the black minority from having a serious participation in the political process for legislative office, in that correct?

A That's correct.

Q Have blacks ever elected, that is, has a black person ever been elected to the legislative office in Galveston County?

A No.

Q Of course it's not simply success in running for office that you are talking about. It is participation.

A That's true.

Q Okay. Is Galveston County, particularly Galveston Island a largely segregated living community, that the people live segregated by race groups or are they integrated?

A They have a much higher degree of integration in Galveston, on Galveston Island as it were --

Q Than any of the other counties?

A Yes.

Q Have there ever been to the best of your knowledge black and white local labor unions segregated local unions in Galveston County?

A To my knowledge, no.

Q And you haven't asked about that or investigated that?

A No.

Q In Galveston County, did your investigation disclose whether or not black leaders exercised veto or at least very serious input upon who was supported by labor and who was going to have a serious chance of being the democratic nominee?

A No, they are not.

Q Do blacks exercise some veto right over --

A Particularly, the black leadership is active. That's

the way I characterize it. They feel that their needs are being responded to.

Q Right. And when Representative Harris or someone seeks --

A Representative Harris testified to that.

Q Particularly this one that has been gerrymandered out, the people that live in that community --

A Census track 1219 he feels that they ought to be integrated.

Q The people that live there are black and they have in the past according to your investigation, I understand, summarizing what you have said, exercised some kind of serious control over the democratic party in Galveston County, serious control, input in the democratic party in Galveston County.

A Yes.

MR. GEORGE: That's all I have.

JUDGE GOLDBERG: Mr. York, anything else?

MR. YORK: I have just one other question, Your Honor.

RECROSS EXAMINATION,

By Mr. York:

Q Dr. Cotrell, have you, in regard to Galveston County and on the question of putting Track 1219 back into Galveston County, have you done any studies of what that would do to the

districts that 1219 is now in.

A No, I have not.

Q Or how that would affect the counties next to those counties?

MR. RICHARDS: We have and Representative Harris actually has done some that we will put in the brief.

MR. YORK: That's all we have. Thank you very much.

JUDGE GOLDBERG: I want to ask you one question.

EXAMINATION,

By Judge Goldberg:

Q The word polarization has been hurled about in this courtroom pretty wildly by all of us, particularly including myself perhaps. I want to see if I can understand you. Not all blacks or all Mexican-Americans suffer the same darts and pangs of discrimination as others do. You would agree with that?

A Yes, I would.

Q When you are speaking of the polarization that operates to deny the blacks and the Mexican-Americans access to the political process, I take it that you are thinking of those blacks and those Mexican-Americans who are subject to these darts and pangs of discrimination and who do not get any legislative input to help or alleviate those problems,

is that correct?

A That's correct except at the candidate level, your honor. As we have seen here in the so-called Barrientos race and the Webber race, blacks and Mexican-Americans who are better off socially, economically or both, not like the great number of their coherts, suffer the same kind of discrimination in terms of attempts to be elected to office.

Q The polarization of the white community against, vis-a-vis, other communities is pure race. They wouldn't vote for a Barrientos because of their race irrespective of their socio-economic level.

A I have to reach that conclusion.

Q Well, that's what I want to know. You did reach that conclusion?

A Yes.

Q Because I think it is very important to this case from your point of view. I want to know what you think about this.

A It is intregal. The confusion, Your Honor, of race and class, am I making myself understood?

Q Yes.

A The reason that you would look at it, "race" is because that's what has been used and that is the history of the State. That's why you would single out and look at race as the issue. That's what the evidence suggests in this

case. That is the basis of the conclusion.

JUDGE GOLDBERG: Thank you. Anything further?

MR. YORK: We have nothing, Your Honor.

MR. GEORGE: No questions.

JUDGE GOLDBERG: What about the Plaintiff Intervenors, et al, Republican Party if you are here?

MR. GEORGE: At least the Republicans rest to the extent that they are able to rest.

JUDGE GOLDBERG: What about the rest of you people? Have you rested over there? Has everybody rested on their oars?

MR. BONNER: If the Court please, we have one minor housekeeping point to take up at this time on the matter of attorney's fees. We have agreed upon a stipulation with the Attorney General's office as to the hours and services performed by the attorneys in the Gaskin case. Of course the Attorney General reserves his right to challenge any award of attorney's fees, but there is a stipulation as to time and services, and we would just like to enter that in the record.

JUDGE WOOD: Well, have you agreed on the amount of attorney's fees if you are entitled to recover them in this type of case?

MR. BONNER: Yes sir.

JUDGE WOOD: How much are they? Or have you

agreed on a formula?

MR. YORK: We have agreed on an amount and they can either state the amount or offer the exhibit or however you wish.

JUDGE WOOD: If it's in the exhibit, we would rather have the exhibit.

MR. BONNER: It's Gaskin's Exhibit 2.

JUDGE JUSTICE: It will be received in evidence.

MR. KORBEL: One housekeeping function as far as we are concerned. Are our depositions in evidence or so we have to mark those with Exhibit markers? I want to make sure that the exhibits that are attached to the depositions and the depositions are in evidence.

JUDGE GOLDBERG: You'll have to ask the Clerk, but the depositions are supposed to have been on file.

MR. KORBEL: Yes, they are all filed.

JUDGE GOLDBERG: Were the exhibits filed?

MR. KORBEL: Yes, sir. The exhibits that are attached to the depositions are --

JUDGE GOLDBERG: They are all in evidence.

MR. KORBEL: Thank you, Your Honor.

MR. GLADDEN: Two housekeeping chores, Your Honor. Number one, the Attorney General's Office and I have agreed to stipulate that since Mr. Collins testified about attorney's fees, that he testified up to that point, that

since that time I have spent two and a half days in Court and Mr. Collins has spent one half a day. The Attorney General wanted me to mention that most of that time he was holding up the map rather than being a lawyer.

The other thing is the Attorney General did reserve the right to file objections to the depositions. He has advised me that he has no objection to Plaintiff's Escalante's Exhibits 23, 24 and 25.

JUDGE GOLDBERG: Thank you.

MR. CRAWFORD: Your Honor, we also have an exhibit we would like to get in. It is a stipulation with the Attorney General's office. We would like to have it marked Chapman's Exhibit Number 1.

JUDGE WOOD: Is that in reference to Attorney's fees?

MR. CRAWFORD: It is, Your Honor.

MR. YORK: That exhibit doesn't show it, but it's been signed by our office and for the record we do stipulate that that's the appropriate amount, whatever exhibit number that is.

JUDGE WOOD: If they are entitled to recover in this type of case, that's the amount of attorney's fees you stipulate that they are entitled to recover?

MR. YORK: Yes, sir.

MR. RICHARDS: MALDEF and I and Mr. George would

like the right to present at some later point if appropriate and exhibit as to our time and the entitlement to attorney's fees should the Court deem that appropriate, that that would be permitted.

JUDGE GOLDBERG: You have not typed up this stipulation with the Attorney General?

MR. RICHARDS: I guess we've just been too busy and haven't done so yet, but we can reach a stipulation I presume. I would just like to supplement it with the --

JUDGE GOLDBERG: Well, let's leave it this way, you try to stipulate if you can, file it and let us know that you have it. If you can't do it, why --

MR. RICHARDS: Surely. I'm sure we can stipulate.

MR. GEORGE: The three original parties that have been up and down twice in this matter, all of us have contended and pled that for all of the proceedings we are entitled to attorney's fees. And as a result, there will be times in prior proceedings --

JUDGE GOLDBERG: Try to do that by stipulation.

MR. GEORGE: We will.

JUDGE GOLDBERG: Do you have anything else?

MR. KORBEL: Nothing else, Your Honor.

MR. YORK: We would have a particular objection to the Republican Party being characterized as a private Attorney General in this litigation.

MR. RICHARDS: Your Honor, I wanted to be certain I had offered and they have been received, the depositions with the exhibits attached, Cleveland Nisby, William Oliver, Robert Gilbert. And we too rely upon the deposition of Tom Moore from Waco. And if I could, could I just say something for the record. I don't want anybody to misunderstand when I responded to the Attorney General's question a moment ago about Tom Moore. I grew up in Waco and I consider Tom to be one of the great men of our time. I didn't want by my conduct to imply in any way any disrespect for him whatsoever. So, I thought if it sounded as if I was somehow doing that, I wanted to make it clear that I wouldn't ever have done that.

JUDGE GOLDBERG: I think the Court would be unanimous in saying you were showing no disrespect. Now, where are we, Mr. York? Are you ready for your first witness?

MR. YORK: I think we are, Your Honor. Mr. Black I believe will put this witness on.

MR. BLACK: I want to call Mr. Frank Wright.

FRANK L. WRIGHT,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Black:

Q State your name, please sir, for the Court.

A Frank L. Wright.

Q And how do you spell that last name?

A W-r-i-g-h-t.

Q Where do you reside?

A 1101 Meridan Lane here in Austin.

Q And how long have you resided in Austin?

A 16-and-a-half years.

Q What have you been doing during that time, Mr. Wright?

A For the first 13 or so of those years, I was the Executive Secretary of the University of Texas YMCA. The last four-and-a-half years I've been a representative with Investors Diversified Services, IDS.

Q Would you characterize yourself as active in politics in Travis County?

A Yes, I think I and others would characterize myself as that.

Q Would you tell the Court as completely and as briefly as you can what you have been doing in politics since you came to Travis County.

A My interest in politics every since I've been here has been in trying to activate what I call grass roots political activity, people talking to people in terms of their political concerns and trying to implement that concern through the elected officials at all levels of government.

Therefore, in my own precinct where I began, I have worked out a very effective, so it's regarded by others anyway, political organization. And in recent years I've been trying to spread that doctrine to other precincts in Travis County so that more and more the grass roots people have a true expression of themselves in the political scene.

Q Are you organized under any name? Do you have a name?

A I myself -- of course the first organization is my own precinct. And then several of those precincts joined together into the West Austin Democrats. And we now have succeeded in having four or five other geographical Democratic Political Clubs organized throughout Travis County.

I served as Chairman of the West Austin Democrats and I am also the convenor in the leadership of all of the geographical special interest Democratic Clubs.

Q All right, where are these other Democratic Clubs located?

A We now work with a Northeast Austin, Northwest Austin and a South Austin Democratic Club as well as the West Austin Democratic Club. Also with the student action committee that works in the student and central area of Austin. And a rather loose group, sometimes talked about as the Chicano Caucas, a number of

Latin American leaders who have precincts that are predominately Latin American.

[709]

Q All right. Mr. Wright, how would you characterize yourself on the political spectrum? By that, I mean are you right wing, left wing, liberal, conservative, or how would you characterize yourself if you can do that?

A I have certain objections to any such characterization, but other people would characterize me on the liberal side I'm sure.

Q And you have tended to support the candidates in Travis County and state wide and elsewhere that are known generally as liberals as opposed to conservative candidates?

A Yes.

Q Is that more or less true of your organization as a whole?

A Yes. We like to talk about it in terms of being orientated toward the interests of all of the people. And that usually turns out to be labor liberal by other people.

Q All right, sir. I believe you told me you were people oriented or something of that kind?

A That's the way we regard ourselves, yes.

Q All right. Now, in the course of your political activity, and I guess this takes up a great deal of your time, your off time when you are not working, is that right?

A Yes, too much. Yes.

Q During the course of this, do you do any work with the black in Travis County?

[710]

A Yes, I do.

Q And do you work with them in voter registration and political campaigns and that sort of thing?

A Yes. In various aspects, in many divisions that exist in Travis County in the black community. I work with various aspects of it in political campaigns in the Democratic party, and in efforts to get the organization more alive and going in the black community as well as the rest of Travis County.

Q How would you characterize the activity, participation, interest and awareness of the black in this community, particularly with reference to the STate Legislative races?

A Well, I would say that the activities and interest of the black community is very seriously divided and has been for some time. I believe that there are indications of increased activity in the black community, but it still finds itself unable to express itself with much incisiveness because there is no singular leadership and no coalition of interests. Instead, they have some eight or nine different political groups, each of which pretends to represent the real important part of the black community.

Q Well, do the blacks work with you fairly well when you are working in political races, legislative races and other political races, apart from that?

A Well, it's hard to talk apart from that when you

have such division and bifurcation within the community. That in itself makes it very difficult to work with them. But I certainly make efforts to do so and have a response on the part of the others to work in that direction.

Q Well, you wouldn't characterize the blacks in this community as indifferent to the State Legislature, would you?

A No, not indifferent to it.

Q All right. Now, what about the Mexican-Americans? Have you worked with their leaders and with them in this community?

A Yes.

Q Would your answer be roughly the same about them or are they different in your observations?

A Roughly the same, except that the Mexican-American community in Travis County has moved further and faster than the black community in beginning to ascert itself in new leadership instead of staying intransigent within the traditional leadership, the leadership that for many years exerted itself in the community simply by the kind of privileges or invitations for chances to attend conventions that were handed out by political people to them?

Q Getting into that just a little bit more and without going into the details about the black and mexican-American candidates for office in this county, I think we can agree there have been very few such candidates, particularly for the

state legislature, do you have an opinion as to the reason for that, for the shortage of black and Mexican-American candidates for the State Legislature?

A Yes, I think tbat there are at least two reasons. One is that the community itself, either of the communities, the Mexican-American or the black, and I'm speaking really in general about both, have remained so divided and up in pieces that they did not tend to think of exerting themselves toward candidacy.

And secondly, because at least up until the most recent years, the titular leadership of either of those communities found their prestige, their recognition based upon the kind of favors that they themselves could get from the predominate established political scene. And therefore, they were not really interested nor encouraging of self-ascertion within their own ethnic community.

Q I believe you say this situation is beginning to change or is changing?

A I think that situation is changing.

Q All right, sir. Now, in your organization and the ones that are affiliated with you, do you have slates of candidates or do you indorse candidates or in elections do you take a stand on candidates?

A Yes, we do take stands on candidates, and that is one of our major functions,at least organizing to be able to

act and then making group decisions as to the direction in which we want to act which means indorsing candidates as a second step.

Q All right. Do you go out and seek candidates to run on your slate and then form a slate, or do you wait until all of the people have filed without any reference to you and then decide which one of them you want to support? Or how does that go?

A Our history has been the latter. That is, waiting until there are candidates and then endorsing the better among those candidates. However, in the last couple of years, there has been some tendency toward doing the other, that is, seeking out candidates because we sometimes find ourselves in the position of remembering a cartoon where the fellow had just gotten to be 21, now he would be 18, he had just gotten to be 21 and he looked at the ballot and said "Now I can vote, but there isn't anybody to vote for." And we sometimes find ourself in that position.

So, we are seeking to find candidates and encourage them to run. And the fact that we are organized and can deliver several hundred workers in at least a third of the precincts in Travis County means that we can seek candidates and candidates may also seek us.

Q All right. When you have decided on what candidates you are going to support, do you go out and contact the black

and Mexican-American leaders and ask them to support these same candidates? Do you try to work with them in elections?

A Yes, to the extent of what any group like my own, the West Austin Democratic Group or any other group has done is shared through this leadership coordination effort with other groups, and any group can go it's own way, but certainly we recognize real value in the community and therefore there is considerable effort to set down and agree on a common cause wherever we can find it.

Q All right. Now, you were not in the Courtroom when Mr. Charles Miles testified, were you?

A I wasn't. I'm sorry.

Q Well, he named a number of black leaders that he said the white community was not even aware of. Of course I've asked you about these gentlemen that he named. One is Doctor Bay and another, a Doctor Undee, both of the Houston Tillotson University.

A I know Doctor Bay. I'm not sure I know the other gentleman.

Q And another one is George Walker who is a barber. And another is Ray Davis a fireman. Now, in your work in political races, are you aware of these individuals all except Doctor Undee?

A Yes, I am. But I certainly would need to say that my acquaintance in the black community is somewhat different

than the normal establishment acquaintance. I am people oriented, and so it's the little people that I get to know.

Q But regardless of that, you are part of the white community and you do recognize at least three of these people as leaders in the black community and have worked with them?

A Yes, and I can probably name a number more.

Q All right, sir. Now, of course you remember some of the races in which both blacks and Mexican-Americans have run for office in Travis County. Do you remember Mrs. Willhemina Delco running for the School Board?

A I certainly do.

Q Did your organization support her?

A We did.

Q Did you work for her?

A Yes.

Q And do you remember Gus Garcia running for the School Board?

A Certainly.

Q Is that the same? Did you work and support him?

A We indorsed and worked with Gus Garcia along with other candidates in the race.

Q Well, not candidates against him?

A No. No. But I mean others in that same race, and we are proud of what they are doing now on the School Board.

Q What about Burrell Hancox, the black who is serving

on the city Council? Did you indorse and support him?

A. We indorsed and supported Burrell Hancox the first time he ran. The second time he ran, we didn't.

Q. And did you support Mr. Barrientos when he ran for the Legislature?

A. We did.

Q. And did you work for him?

A. We certainly did.

Q. What about the race the first primary that was between Mr. Ruiz and Mr. Larry Bales? What stand did your organization take on that race?

A. In the Ruiz-Bales race which was before the run-off of course only one of them made the run-off, we were placed in a position in which most of our groups would make an indorsement by a very small majority which is of no use in these kinds of groups. You have to have a large majority and that puts the workers in the field. Our indorsement is not worth much except where it puts workers in the field and in the race you are speaking of, the Ruiz-Bales, race, both candidates appealed to us in large measure, and it was impossible for us to make the kind of indorsement that really would have been effective and put workers into the field.

Q. All right, sir. Now, in your ideas and plans to perhaps go out and actively solicit candidates to run

rather than waiting for candidates to file and then support them, I believe you did testify you had plans to that effect?

A. Yes, and are doing it in current races a bit.

Q. Do you think it probable and likely that you will approach blacks and Mexican-Americans to run in county wide races?

A. Yes, I'm sure that we will. In fact, one of our particular roles is surely to make it more possible for such a candidate, women, included, women, Mexican-Americans, blacks to be able to run advantageously and successfully in Travis County. And therefore we will look particularly for able people in those communities which heretofore have largely been excluded from active participation as candidates.

Q. All right. Would you say based upon your observation of the political tenor of Travis County that is is impossible for a black or a Mexican American to be elected to the Legislature in our at-large or multi-member districts?

A. No. It's no longer impossible. The thing which I believe that an analysis will back this up, that has made that no longer true, I think it was once true, it is no longer true because of the very organization I'm speaking about which is now able to put, on behalf of a good candidate from the black or Mexican-American community, a large working force in the Anglo

community. That is the reason that I can no longer say that it is impossible for such a candidate to win a legislative race in Travis County.
Of course in the Barrientos instance, there was a thousand vote difference. And contrary to some other testimony we have heard today, I think we could have made that thousand votes up. Particularly if the opponent had not raised some racial issues and other things in the last two days of that campaign, we could have probably won that.

Q. He certainly did well for a relative -- he was a relative political unknown when he ran, was he not?

A. Yes, he was, although he knew the people.

Q. And of course Mr. Foreman has the -- Have you ever heard of the Schlessinger Report on incumbents? Have you read that?

A. Yes.

Q. Mr. Foreman had that going for him, whatever it was, did he not?

A. Yes, sir, he sure did.

Q. All right. As a matter of fact, you have heard some of the characterization of the testimony of Tom Moore by deposition in this case. It certainly was not long ago that it could have been said in Travis County that it was virtually impossible for a liberal to be elected to a public office in Travis County, would you agree with that?

A. Probably so.

MR. BLACK: Thank you very much, Mr. Wright.

CROSS EXAMINATION

By Mr. Richards:

Q. Mr. Wright, do you know Stuart Long?

A. Yes, I certainly do.

Q. Stuart testified here earlier in the case it was his view that historically, and I'm looking back behind 1972, that sort of a loose business lobby sort of organization had dominated legislative politics as to the legislative races in Travis County. Would you agree with that?

A. Prior to --

Q. 1972.

A. 1972. I might need to go back just a little longer than that, but certainly not very far. From '70 back, I would agree with that.

Q. I take it that you don't consider yourself a part of that group, that business lobby group that had dominated the scene in the '60s.

A. No. sir, I do not.

Q. All right. We have actually talked about this and I suppose you've already answered it, is it your opinion that the racist campaign tactics that were employed by the incumbent, Wilson Foreman, were instrumental in the defeat

of Gonzales Barrientos in the 1972 campaign.

A. Yes, I do.

Q. And do you recall other instances -- By the way, Wilson Foreman has been a legislator from this County for how long? Or off and on --

A. Off and on for about 18 years. He had a little time when he wasn't in.

Q. All right. Larry Bales testified that his incumbent opponent used what he considered to be racist campaign tactics in 1972. Do you recall that campaign?

A. Yes.

Q. Would you concur that that was in part the campaign run by incumbent Harold Davis in 1972 against Larry Bales?

A. Would I agree what about it?

Q. That in fact incumbent Harold Davis attempted to rely on racist type of appeals in seeking to defeat Larry Bales, specifically, trying to link him with the black panthers if you recall.

A. Yes. Of course where race is a handy thing, it's easier to tie into. It is the kind of campaign effort that's used, anything you can find to try to persuade the establishment business orientation that this man is a great threat to you or something like that, and race is a part of it.

Q. I'm not sure I understand your testimony as to the role, for example the black community has played in the

legislative politics of this county. Let's look at '72 back, first. Charles Miles testified as he viewed it, the black community of Austin had little or no role to play in the legislative politics in Travis County in recent times. Would you agree with that?

A. In the legislative politics?

Q. In determining who was going to run for office and who was going to be elected to office and having a significant input in terms of once elected what those office holders would do, what their program would be.

A. I think that would be a true statement.

Q. What is your view as to the desireability of single member legislative districts in Travis County?

A. Well, I think that single member districts would enhance the effort of people talking with people because you could concentrate your efforts into a smaller community. And as I have said, I believe in people talking to people as the way we can overcome, make our democracy overcome the problems and make our democracy work. I would feel that a smaller area in which to work, a smaller population would benefit that effort.

Q. Can you in that context agree that single member districts would at least give the black community a better focus and more opportunity to have input into the legislative process in this county, would be desirable?

A. Yes, I do think it would.

MR. RICHARDS: That's all. That's all I have.

MR. KORBEL: I have nothing further, Your Honor.

JUDGE GOLDBERG: Anyone else at this table? Mr. George?

MR. GEORGE: No questions, Your Honor.

MR. GLADDEN: Nothing, Your Honor.

MR. BLACK: We have no further questions. We call Representative DeWitt Hale, Your Honor. May it please the Court, I have to go and appear as a witness in a non-constitutional matter in State Court and then some other things. May I be excused?

JUDGE GOLDBERG: You may be excused and we appreciate your presence.

MR. BLACK: Since I probably won't be back before the end of the proceedings, I want to thank all of you for your courtesy.

DEWITT HALE,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. York:

Q. Will you give us your name, please sir?

A. DeWitt Hale.

Q. Where do you live Mr. Hale?

A. Corpus Christi, Texas.

Q. What business or profession do you follow?

A. I am a lawyer.

Q. How long have you practiced law in that area?

A. In that area? Since 1946.

Q. Have you been active in politics both in public office and otherwise since 1946.

A. Yes, sir, but not everytime as a candidate.

Q. Have you served in an elective office from Corpus Christi?

A. Yes, sir.

MR. KORBEL: Excuse me, Your Honor. I of all people hate to object to taking a lot of time here, but this man was brought into a deposition. His deposition is on file. And I wonder the purpose behind calling this witness at this point.

MR. WALKER: We advised Counsel yesterday that this deposition or this witnesses testimony would replace the testimony of Mr. Salem who is the other Representative from Corpus Christi. We had always intended to call one of the Representatives as a live witness.

MR. KORBEL: Are you going into matters apart

from the deposition or are you going to cover the same matters?

MR. YORK: Both. And I might point out that Mr. Korbel did not attend the deposition and it was objected to at the time that he had not had an opportunity to cross examine this witness.

MR. KORBEL: I enter no objection as to that.

MR. GEORGE: Just as to the repetition, we would object as to the repetition.

JUDGE GOLDBERG: We have heard a lot of repetition and we can stand a little more. Go ahead.

Q. (By Mr. York:) In a brief fashion if you would, Mr. Hale, tell the Court what elective offices you have held.

A. I have held only one and that's of a State Representative.

Q. Did you first run in 1952?

A. Yes, sir.

Q. Did you serve continuously until I believe 1962?

A. Yes, sir. I served from January 1953 through December 1962. I ran for the senate in 1962 and fell a few votes short. So I was out for two years. Then I ran for Representative again in 1964 and was elected and I have held it since that time, starting in January 1965 to the present time.

Q. At this time and during the last session did you

serve as Committee Chairman or hold any other significant post in the 63rd Legislature?

A. I was Chairman of the Judiciary committee, yes, sir, for the fourth time.

Q. All right. Is it possible and has it been possible in Nueces County since you've been running for public office there for a candidate to win without significant support from the Mexican-American community?

A. Well, it's mathematically possible, yes. But as a practical political matter, no. You cannot win without substantial support.

Q. Have you always campaigned and sought the support of the Mexican-American community?

A. I have had a much larger percentage of the Mexican-American vote in every one of my contested races than I have of the Anglo vote.

Q. This has already been mentioned just coincidently in the case, but have you been made an honorary life time member of the LULAC?

A. Yes, sir. At one of their national conventions they made Representative Malcolm McGregor of El Paso, who was then a State Representative from El Paso and I honorary life members because of the legislative work we had done in setting up a program for pre-school instruction in English for non-English speaking students.

It was a program that was originally dreamed up by Mr. Felix Tijerina of Houston who at that time was president of the LULACs. And we put it through the Legislature and as a result of that they honored us at their National Convention by making us honorary life members. It did not carry any other emolument I might say.

Q. Have you sponsored or worked on or been responsible for the passage of other legislation which might be thought of as being legislation of particular importance to the brown or black community?

A. I have sponsored a great deal of legislation that is of particular interest in those areas and have worked for a great many pieces of legislation which I did not personally sponsor.

Q. Did you take any stand on school financing in Texas this last legislative session?

A. I sponsored the bill to try to comply with the holding of the Federal Court in the Rodriquez case involving the Edgewood Independent School District in San Antonio. That was known as House Bill 946. And we had a very bitter floor fight on that and we finally passed it in the House. But it was emasculated in the Senate. And as a result, it was never finally passed. And that's not the first time I've worked on that. I was the State Vice-Chairman of a state wide committee that

became known as the Hale-Aiken Committee back about 15 years ago. We saw that problem and recommended changes at that time. The Governor's Committee on Public School Education about 10 years later appointed by Governor Connolly made the same recommdation. Mr. Leon Jaworski was Chairman of the Governor's Committee. And at his request I sponsored all of their recommendations to the legislature. Again, it was designed to try to equalize educational opportunities for all children in Texas. And I'm proud of the work that I put into that.

Q. Where have you --

A. We are going to pass it here in the next session of the legislature.

Q. Do you think there is any prospect for a special session?

A. That is, if I'm a member at the next session.

Q. Where did you stand on the repeal of the poll tax at the time when that was an issue in this state?

A. I have advocated the poll tax every since I've been in public office. And I'm proud to say that I was a cosponsor of the repeal resolution in the Texas Legislature. Mr. Travis Peeler also from Nueces County, who was my colleague at that time, was the lead sponsor on that bill.

Q. Where have you stood on permanent voter registration?

A. It was a bill accompanying the repeal of the poll

tax. We have had that bill in the legislature for several times. One of the biggest problems we have in my County, and I can only speak for my area of the state, but our biggest problem with the minority groups down there is getting them qualified to vote. We don't have near the problem of getting them to the polls on election day as we do getting them qualified.

And of course as long as there was a poll tax, the biggest bug-a-boo was the $1.75 which we had to put for everyone. Now it's registration. So what we badly needed was a permanent registration so that once they are on the voter list, if they vote every year then they are automatically re-registered. And that's what we've been striving for.

Q. What did you have to do, if anything, with the rider on the recent appropriations bill, I think this session, that purported to prohibit discriminatory employment in the state?

A. I was one of several who met on that, worked on it and lobbyed it into the legislature and got it on as a rider.

Q. Have you been active in the area of licensing and so on as far as proprietary schools in the state are concerned?

A. Yes, that was in response to a glaring need in our community where a lot of these trade schools, private trade schools were coming in and getting the minority people to

come in and register, pay them $500, $600, or $1,000 to become an expert welder or an expert plumber and then about a week later the school closes down and the fellow skips out an they were out all of this money which usually they had borrowed from some loan company.

So that to solve that problem, we initiated and passed this bill at the last session which I sponsored in the House and Senator Joe Christie from El Paso sponsored in the Senate known as the Proprietary School Act and it now requires all of these trade schools to be licensed through the Texas Education Agency. They have to post a bond. and I think we've closed the barn door now so that there will be no more horses stolen in this area.

Q. How would you characterize polarization or the lack of polarization in the races in Nueces County from which people with Anglo surnames like Hale get elected, and then also looking at the area where people like Mr. Soliz, the District Clerk, gets elected county wide, or judge Garza, County Judge, get elected county wide. Do Anglo voters in your county, in your district, tend to vote almost exclusively for Anglos and the same true for Mexican-Americans, or what is the situation?

A. No,sir. I heard one of the other witnesses here, I believe the Doctor here who is making a study all over the state on these things, I heard him testify to that and I think

he is totally inaccurate as far as Nueces County is concerned. There has absolutely been no polarization of the voting patterns in our county. For instance I carry the areas which are predominately Mexican-American and black, I carry them by bigger percentages than I do the areas that are predominately Anglo.

You can take a candidate like Tony Bornillo for instance, Tony Bornillo was elected and he carried the Anglo precincts real heavy in certain areas. Oscar Soliz who is our district clerk defeated an incumbent Anglo and he did it not by -- he carried the Mexican vote solid too, but he also carried a heavy Anglo vote.

I don't think you can find a pattern in our county on polarization. There has been no polarization. There has been really no racial problems in that regard.

Q. All right. Now, would that be both before and after the beginning of the school problems that have been discussed in this Court.

A. Of course the school problem, the school lawsuit down there over our schools certainly hasn't been aided and abetted our brotherhood down there. It has had it's bad effects regretably. And unfortunately everybody that I know of, certainly everybody in the political spectrum down there wants the same objective. And yet the lawsuit has made it more difficult for us to obtain that objective.

For example, I read Mr. Montemayor's deposition here, you showed me a copy of it, and I was curious to see what he said about that because he was the moving force behind this school lawsuit. And I noticed he took the same position that I did, and that is that nobody wants to bus the school children. What we want is equal educational opportunities for everybody, black, white, brown, yellow, pink, whatever the color the skin might be, whatever the ethnic background might be, whatever the religious affilitation might be we would like to have them have the same educational opportunities. But, we do like the neighborhood school concept. I have my youngest daughter still in elementary school and she goes to a school that's close enough to where we live that she can walk back and forth. And I like that. I would hate to see her bused clear across town. I could care less who goes to that school. It's a matter of convenience to have a school close to your home.

Q. Do you know of any community in these United States where busing has become an issue where it has been just an unnoticed issue that didn't cause a certain degree of controversy in the area?

A. Well, I don't know how to answer that question, Counsel. I'm not familiar with all of the communities in the United States.

Q. Doctor Garcia testified, Doctor Hector Garcia from Corpus Christi has testified in his deposition, page 38, that, "If you ask me, I would rather say do you think if the Supreme Court orders transportation and I'm not talking about forced busing, but I am talking about free transportation to go from one school to the other, I would say that all Anglo legislators except Sissy Farenthold would have voted against it. They would have voted against it."

How would you personally feel about that issue?

A. First, let me say this: Doctor Hector Garcia is a great man in my opinion. He is a friend of mine, he has supported me in every race I have ever made. I hate to be in a position of disagreeing with him, but that statement is an incorrect evaluation on his part. Our delegation has been most responsive to every need of that community. I think we would have voted and worked solidly behind any transportation financing that was necessary if it had been ruled that it was necessary to transport the children. We would have done that. I have sponsored practically every significant piece of school legislation that has been passed in Texas in the House in the last 20 years, and several of those have been massive increases in the state funds that were going into the area of school transportation.

Q. Let me ask you one or two questions and this sort of relates to schools, but you had told me about an incident

maybe going back into the '50s in the Robstown schools where the·e was a discussion about whether there should be a place system or an at-large system in the election of your school trustees.

A. Yes, sir, I did tell you about that. During one session of the legislature, an attorney for the Robst·m Independent School District called me on the phone and said that the board had decided that they would like to go to a place system for selecting the trustees in their Robstown Independent School District. And would I sponsor a bill to do that. I said sure, send it on up.
He sent the bill up and I introduced it in the House. I don't recall the number of it now, because this has been many years ago. And then I immediately sent out copies of it as I do on nearly all of the legislation I sponsor that has a local impact, I sent copies of it to a number of people in Nueces County and asked them for comments on it.
I promptly got a comment by telephone call from Doctor Hector Garcia. He was very much upset about it and he said "DeWitt", he said, "do you know what they are trying to do with this bill?"
I said, "No. All I know is they called me and asked me if I would introduce it." He said, "Well, what they are trying to do, they are trying to set up this system so that they can cut us out of the School

Board, so that we can't get anybody on the School Board." We talked about it on the phone for some time. I said, "Well, if that's the intent of it, you don't have to worry about this bill."
I called the attorney for the school board back and talked to him a long time about it and found out that that really was what was lurking in the back of their minds on it. I promptly withdrew the bill from the Committee, I killed the bill myself in the Committee.

Q. Did the subject of the Robstown Board of Trustees ever come up again?

A. Yes, it did. Robstown now is heavily weighted in favor of the Mexican-American population, and now the School Board in Robstown -- I don't know, I can't give you the exact figure on it, but it is substantially controlled by the Mexican-American community. Shortly after they obtained a majority on the board, they called me and they wanted me to introduce a bill to put the place system in the Robstown Independent School District. And I told them that I've gone down that railroad track once before and I wasn't going to have anything to do with that bill. I don't know whether they ever got it introduced or not.

Q. On another subject, speaking of Robstown, the representation was made by Dr. Cotrell that Carlos Truan's fairly large majority in 1968, followed by a lesser majority

in 1972 was an indication to Dr. Cotrell that there was a polarization of the vote that had grown in that four year span. Would you comment on that?

A. Yes. I was sitting back there and I heard him make that statement. I don't agree with his conclusion on that at all, and I think he's mistaken. I think he has drawn his conclusion from erroneous facts.

For one thing, the district changed between 1968 and 1972. In 1968, all of us were running at-large over two counties, Cleberg and Nueces County. Carlos Truan was born in Cleberg County, grew up there, went through Texas A & I University there and had a tremendous following in Cleberg County. He carried that county almost unanimously, Anglo, Mexican-American, black, everybody. That contributed greatly to his majority in 1968.

Between 1968 and 1972, as a result of redistricting, brought about by Court order and legislative action, in 1972 we were running in only part of Nueces County. The three of us were running at-large in a part of Nueces County. We had lost Cleberg County and we had lost the northern and western part of Nueces County which was moved up into the Leroy Williams district. So that was one big factor that contributed to the narrowing of the margin there.

Q. Let me stop you at one point there. Mr. Truan is from Robstown, is that right?

A. He was originally from Kingsville.

Q. Where did he live -- Or how did that change in terms of where he lived and where his background was? How did that change affect him, or did it?

A. I don't quite understand your question. He grew up in Kingsville, and then after he got out of college he moved to Corpus. He's been in business in Corpus for many years. But having grown up in Cleberg County, he has a large number of friends and loyal supporters over there.

Q. So that that county was later, by 1972, he didn't run in that county again.

A. He didn't run in that county in 1972, none of us did.

Q. Go ahead.

A. Okay. And of course there were two or three other factors, and none of this is a polarization of the community. If there was any polarization on it, it was on Mr. Truan's race himself. He had become very controversial in two or three areas down there, and I don't know to what extent you want to go into these, but for one thing, just to mention one big controversy that he got into, he got into a controversy with the Bishop of Corpus Christi as a result of his activities in the Farm Workers March. The Bishop was jumping all over Mr. Truan down there, rightly or wrongly, and I don't want to take sides on that particular controversy, but I point the

controversy out to show that Carlos lost lots of votes as a result of his fight with the Bishop.

Q. How do you and Mr. Truan and Mr. Salem work together as a delegation?

A. We have worked very closely together, particularly on local issues. But even on state wide issues, we are normally in pretty close agreement and harmony. Historically we have always had a real closely knit delegation and we keep in close touch with each other and we try to confer on key matters, and hopefully we can resolve our differences among ourselves.

Q. One or two last questions, Mr. Hale. As you know, the issue before this Court is whether or not -- It began with nine multi-member districts and Plaintiffs have now conceded on two of those --

MR. RICHARDS: We don't concede on Galveston County, Your Honor.

Q. (By Mr. York) Leaving the remainder. So that what's left for this Court to decide is whether or not those remaining counties which have a multi-member district situation, whether or not that is constitutional or whether it should be replaced by single-member districts. As you know, the Court I suppose would have the option in any county that it decided to do that of either immediately ordering that that be done or perhaps ordering the legislature to do

it at it's next session. Do you, as a long time member of the House of Representatives, have an opinion on the practical difficulties considering that we have a constitutional convention coming up in this state in January, that a ruling of single member districts in any county of the State would have on the incumbents who would be trying to run again and also at the same time trying to re-write the Constitution of this State.

A. Well, even without the redistricting, we have all been worrying about the problem of having to run for re-election at a time when we are in a constitutional convention here and also trying to rewrite the basic law of this state, and it's not going to be easy.

I would certainly hope the Court would take that very important political fact into account in those areas, if it does in any area order single member districts, hopefully to permit the legislature to do it the next time. I know in reading some of the news reports on this case, and I know on my deposition that one of the Counsel asked me the question, "So, why didn't the legislature do it the last time?" Well, we have conscientiously tried to comply with every Court order in any area, whether it was welfare or whether it was school legislation, whether it was redistricting or whatever it was to the extent that we had definitive guidelines to go by.

Now, the reason we didn't get into the redistricting situation during the last session of the legislature is we did not have those guidelines. We did not know at that time and we still don't know, otherwise we wouldn't be here in this Courtroom today. We still don't know whether multimember districts in Nueces County for example are discriminatory under the Federal Constitution. As I read the Illinois case, I just don't think you can show the pattern of discrimination that Justice White says is necessary to violate the 14th Amendment in Nueces County. So, until we get that guideline, the legislature has made this policy decision that we would prefer multi-member districts in these counties.

Now, if the Court rules and says "Well, you can't have those districts and you've got to go to single member districts", I say to you that we will pass a single member district bill the next time the legislature meets for those areas. We would certainly abide by the Court's decision.

Q. Let's talk just a little about the policy behind the multi-member districts as it has grown up in Texas. Is it your view or do you have a view on whether the multimember scheme as used in Nueces County which you are most familiar with operates to make all three of the members responsive to minority needs? Do you have an opinion as to whether that in your view is better than dividing it up so

that only one need be so responsive? Could you speak to that issue?

A. I would answer that the same way that -- I'll plegiarize my good friend, the District Clerk down there, Oscar Soliz. I talked to Oscar about that one time and he said --

MR RICHARDS: I object to what Mr. Soliz said. If Mr. Soliz comes and testifies, we will cross examine him about it.

JUDGE GOLDBERG: Well, Mr. Richards, we have permitted the witness you offered to say what he found out in his interviews all over this state. I think it would be in the area of policy that we let Mr. Hale tell this. You can cross examine him if you want to gouge what went on. Go ahead.

Q. (By Mr. York:) Let's talk about it as an interview with Mr. Soliz.

A. Counsel, I don't know that you would actually call it an interview. Mr. Soliz is a good friend of mine there and he and I have talked about this problem on many occasions. When it became evident that you wanted me to testify, he is one of those that I talked to about it. I shared the same view that he expressed to me, and that is, that the black community and the Mexican-American community and the other minority groups get far better representation under our multi-

member districts setup that we have now than they could conceivably hope to get in single member districts.

If you break Nueces County into single member districts, you are going to immediately create a situation where now we have three representatives who are dedicated to trying to serve these areas of the community and particularly the black and Latin-American communities. We go out of our way to try to meet their needs and handle their situation. But you give me a little single member district that has practically no Mexican-Americans in it and no black in it, and then I become complete oblivious to the needs of that area because I've got to serve that little ward you have created for me. And whatever it's political complexion is, that's going to have to be my political complexion and my interest in the future.

So, I think that where Dr. Hector Garcia or where Oscar Soliz or any of the other leadership down there, the NAACP leadership, Irving Brown and others who come to me constantly with their problems under a multimember district setup, which I wouldn't necessarily do if I had a little single member district and didn't have to respond to those needs.

Q. Is the multimember district in Nueces County conceived or operated as a purposeful device to further racial

or economic discrimination?

A. Absolutely not. The multimember district first came into being down there in the 1951 reapportionment following the 1950 census. Up until that time, we only had one representative covering three counties down there. We had fought for years trying to get the reapportionment so that we on a population basis could get what we were entitled to.

But it was set up as a matter of state policy, and written into the State Constitution, until it was changed by the Federal Courts, we did not violate County lines. We recognized the County as the historic political boundry in Texas. And in setting up legislative apportionment in the 1951 legislature, we adhered to those county lines. And we continued to adhere to those county lines and use multimember districts and the flotorial district concept in some areas which were permissible at that time as a vehicle for attempting to apportion out the legislature.

There was absolutely no historic background that this system was designed or ever operated with idea of trying to discriminate against anybody. It was designed as an idea of trying to say that if Nueces County is entitled to four Representatives, they get to elect four. If another county is entitled to two, they get to elect two. If a county is too small to have one, then it's combined with other counties

until you get enough population so that you have a representative. And that was the whole theory of it.
The historic background is completely nullified to any thought that it was ever designed for that purpose or deliberated operated for that purpose.

Q. Were all of the rest of the multimember districts in this state, did they have their beginnings in the same way, that is, starting off with the county that had one representative and with the increase in population thereby adding more representatives to that county?

A. No, they didn't start off that way. If you will go back to the first reapportionment under the 1876 constitution, of course you had some counties large enough at that time. But in the first ordnance under that constitution they allotted so many representatives to each county. And there were some counties at that time I think that had as many as three or four. I'm not sure. I don't recall. But that information is available. to you.

Q. And those three or four in 1876 were running at large or multi-member?

A. Yes.

Q. All right. In Nueces County does your Mexican-American and black resident have less opportunity than do the other residents, the Anglo residents, to participate in the political processes and to elect legislators of their

choice?

A. I think they have exactly the same opportunity and the same chance that anyone has. If you will look over the history of our legislative delegation -- in fact, I've gotten over a million miles of humorous comment in speeches I have made here over a four year period at civic clubs where I would needle my colleagues when we would meet together by saying "I know you are all fussing at us about what's going on in the legislature. I want you to look at my delegation and you can understand why." I said, "We've got one Mexican-American, one Arab, one frustrated female and one broken down old lawyer." I said, "What do you expect out of this delegation?"
And that was literally our situation. Mr. Salem in the US Census figure, he is in that other category, he is a Lebanese. He's an Arab, one of the smallest minority groups that we have probably in the county. Mr. Truan is a Mexican-American and an outstanding representative of his people and an outstanding representative. We had Sissy Farenthold who is a woman. We have had one woman in the delegation. We have elected a Republican on two different occasions. We elected Mr. Tony Bornillo on a different occasion. And he beat an Anglo in his run-off when he was elected to the legislature, Mr. Curtis Ford who had served two terms in the House, an Anglo, a former representative.

And he did it with Anglo votes.
So, what I'm trying to point out to you is that throughout our multimember district history we have had a very cosmopolitan and representative group. You couldn't break the county down in any way where you would have a better balance, conservative-liberal. On religious lines, we have had protestants, we have had catholics, we have had every conceivable type of religion. We have had male and female. We have had Mexican-Americans, Anglo-Americans. I just don't think any of those factors enter into it.
If you analyze the races, you will find that the people didn't follow any voting pattern other than on an individual basis they voted for the one they thought would do the best job.

Q. Do you think that's what they ought to do?

A. I think that's what they should do, yes, sir. I don't think that a man ought to be elected because of his race, creed or color. I think he ought to be elected on the basis of what he can do for his constituents and for the State. And I like to think that every election I have won, I have won it on that basis and that basis only.

MR. YORK: Thank you sir.

MR. RICHARDS: I have a couple of questions which are actually outside the scope of direct and they are not really cross. If the Court would permit me just to

identify a couple of people.

JUDGE GOLDBERG: Go ahead.

CROSS EXAMINATION

By Mr. Richards:

Q. Mr. Hale, could you help me here for the record. Identify the following for me as legislators from Jefferson County during 1957. Will Smith, do you know him?

A. Of yes. I know Will. I'm not sure about the year.

Q. Was he at one time a representative from Jefferson County?

A. He was a representative for some 18 or 20 years.

Q. He died last year I believe.

A. He passed away about two or three years ago. A very fine man.

Q. Rufus Kilpatrick?

A. Rufus Kilpatrick was a representative from Jefferson County.

Q. And Mr. Harrington, at one time was Mr. Harrington a legislator?

A. He is a Senator now.

Q. But at one time he was a member of the House of Representatives?

A. Yes, he served in the House at one time, yes, sir.

MR. RICHARDS: Thank you very much.

CROSS EXAMINATION,

By Mr. Korbel:

Q. First of all, would you suspect that a majority of the Mexican-American community in El Paso county are in favor of student transportation to insure integration? Excuse me, I'm sorry, Nueces County.

A. I was going to say I don't know anything about El Paso County. Would you rephrase the question?

Q. Would you say that a majority of the Mexican-American parents in Nueces County are in favor of integrated public education?

A. Integrated public education, yes, sir, I would think that a majority of all areas of our community are in favor of integration of public education. Let me say this about Nueces County, if you will go back and have your expert check it, you will find that all of our systems down there, our school system, our junior college group, our restaurants were all integrated before there was any court order on it. It was done voluntarily. The Delmar College Board of Regents integrated the college on their own. The Chamber of Commerce got behind and worked hand in hand with the Mexican Chamber of Commerce, they worked closely together and had all of the businesses do the same thing. We did it on a voluntary basis with no friction and no strife, no sit-ins, no trouble at all.

It is a cosmopolitan area.

Q. What is the degree of integration in Corpus Christi today? What is the degree of school integration? You have racially identifiable schools, don't you?

A. You have schools and I'm no expert on schools, and I heard some of your testimony here from the school kids, but that's not the fault of the school, Counsel. That's the fault of the housing patterns. Not that the schools are not integrated. And the reason you have some schools that are predominately Mexican-American and you have some that are predominately Anglo-American is because of the housing patterns. And that's being rapidly broken down. If you take a distribution of the races in Nueces County 20 years ago, in 1952, when I first went to the legislature from there and put it side by side with the ones today, you would see a tremendous change because the housing pattern is breaking down rapidly. And as a result, that type of school is breaking down rapidly.

Q. What percent of the students at this school that your daughter attends are black?

A. I have no idea.

Q. Are there some blacks there?

A. I don't know.

Q. What percent are Mexican-Americans?

A. I don't know. I sure don't know. I couldn't give you the percentage in any school in Corpus, Counsel. I'm just

not that familiar with the schools.

Q. Dr. Garcia, and you admit that you respect Dr. Garcia a great deal, testified in response to a question "I would say first that the prejudice and hate felt toward the Mexican-Americans has not been overcome." Would you agree with that?

A. Well, you are talking in degrees. Of course you are taking his statement out of context. I would disagree with that. If he is talking about the situation that prevailed in the 19th century, yes. I think we have completely gotten away from the racial hatreds and so forth that persisted in Texas at that time and persist in some areas of Texas perhaps even today. I don't know. I'm not qualified to speak on that. But I don't think we have the racial hatreds there in Nueces County. No, sir. Again, you can find extremes anywhere, Counsel. I'm sure that you could find some people in Nueces County that wouldn't be caught dead acting like they were friendly toward a Mexican-American or toward a Negro and you could probably find some Negros who feel the same way about the whites. And probably some Mexicans.

But I think you will find that those are the fringe areas, the radical fringe. And I don't think it's the broad center of the political spectrum.

Q. Now, everybody who has appeared here so far, including

yourself, has testified that there is racial polarization in Corpus Christi as a result of the school case. You don't deny that, do you?

A. Well, you need to define your term "polarization". The Judge asked the question about polarization of some witness a minute ago, to be sure he understood it. If you mean that you have driven and divided everybody into two completely opposite camps, no. I certainly don't think that has been the result.

Q. Not everybody, but how many?

A. I think what the result has been, I think that the school kids down there have aggravated the fringe area, the radical fringe on both sides of this thing. And as a result, those are the ones that are tearing their hair and screaming and jumping up and down and marching on down the streets and so forth. And so it's those fringe areas that have been polarized.

Again, I think the big mass of humanity down there of our population feels exactly like I do, that we want integration. We want educational opportunities to be equal for everyone. We simply don't like the idea of having to bus kids clear across town in order to do it. We need to change the housing patterns so that everybody can go to neighborhood schools on an integrated basis.

Q. Let me ask you, isn't it true that Representative

Carlos Truan led the fight in the State House against this resolution which would have put an end to forced student transportation.

A. Well, he was a very active leader. Now, which resolution are you inquiring about?

Q. That was the resolution that set up the Federal Constitutional Convention to pass the Constitutional Amendment against the transportation of students.

A. I don't remember whether he led the fight on it or not. I'm sure he was outspoken and in opposition to it, I'm sure.

Q. How did you stand on that?

A. I probably voted for the amendment in one form or another. We had two or three different versions of that. The one I voted for was one where it said, it provided simply that there would not be mandatory busing in order to achieve --

Q. It would be up to the student to decide whether or not he wanted to go to an integrated school?

A. No. I think we ought to bus them as we have tried to do in House Bill 946 and as the Governor's Committee on Public School Education tried to do, and that's to set up the school system in such a way that we can achieve this equality without going into massive busing, and I think we can do it.

Q. What is the state policy as you see it that underlies the multimember district.

A. What is the State policy on it?

Q. Yes, sir.

A. I think it was a --

Q. What is it now?

A. I think it was a revolt against the evils of the ward system of politics that the 19th century was most famous for. And that is, you carve out a little ward and then each one represents his ward. And then they trade out with each other. They gain things for each little ward there and you fragment the county politically. When you fragment it politically under those circumstances then you fragment it for all purposes, economically and otherwise. And I think it was an attempt to get away from that fragmentation and an attempt to treat the county as a historic political unit and giving some cohesiveness that led to the use of multimember districts.

Q. Representative Hale, when is the next session of the Legislature?

A. The next regular session will convene January 1975. We had an amendment on the ballot this last November to try to get it on an annual session. We badly need to go on an annual session, but the people voted that amendment down.

Q. So, in 1975, is when you are proposing to the Court that you might consider going into single member districts,

is that right?

A. Well, I have a strong feeling that we may have to have a special session here pretty soon if the Governor is animate about cutting the speed limit to 55 miles an hour because while I'm not a great constitutional lawyer, I think it's going to take an act of the legislature to do that. I don't believe the Governor is going to be able to do it without the legislature.

Q. I'm going to refer to Plaintiff's Exhibit 43a, Moreno 43a, Nueces, and specifically I am referring to the precincts that are south of Weber Road. So that there is no question about it, I think Dr. Cotrell's testimony that the precincts south of Weber road --

JUDGE GOLDBERG: Where is Weber Road?

MR. KORBEL: Weber Road runs right here, Your Honor.

Q. (By Mr. Korbel:) He testified that those precincts south of Weber Road would lend some credence to the idea that there is polarization in Corpus Christi. Now, for the purpose of the record, isn't it true that you home precinct is precinct number 65?

A. I believe that's right. I would have to check my registration to see, but I think that's right.

Q. And if we were to draw single member district, or three single member districts for Nueces County multi-

member district, in order to make one district starting right on Weber Road and then running south on Saratoga Boulevard which includes 75,000 people in that district, do you suppose you could be elected in that district? Would you have any trouble being elected in that district?

A. I would certainly hope so. I think I could be elected in any district that you carve out of Nueces County. But I might be wrong. I got beat for the Senate one time.

Q. Would you agree with Dr. Garcia that there is a legacy in Nueces County of things like the poll tax, the restrictive voter registration, the restriction on migrate voting as a result of the long term residents requirement, would you say that that has created a legacy which has disinterested Mexican-Americans in participation or has visibly effected their participation?

A. Well, it has been my observation and maybe I'm prejudiced because I have so many friends in the Mexican-American community and so many supporters, but if you will go with me on election day, let me take you on a tour through Nueces County you will find the most active polling places and the most articulate areas of the community are the Mexican-American communities. Now, that's where the activity is on election day.

Q. And if Dr. Garcia's deposition indicates he doesn't feel that there is that turn out, would you dispute that?

A. Again, I respect the Doctor's opinion. I would disagree with his conclusion that that's true. I think you only need to go to some of the precincts that are predominantely Mexican-American or have historically been and you can see the activity out there on election day. I don't have to tell you about it, you can go out there and see it for yourselves.

Q. One of the first bills that was introduced by Representative Truan was a bill to allow the teaching in our public schools in a language other than English. Do you recall what year that was he introduced it?

A. Well, he introduced it the first time he went up there. But of course, there is nothing new about that bill. It's been introduced on several occasions prior to the time that Mr. Truan ever got up there.

Q. But it now passed, is that right?

A. It has now been finally passed. And Mr. Truan didn't even get it passed his first term out there as hard as he worked on it. And he devoted a lot of time to it. But it again, like so many things, counselor, it was an idea whose time had come. You got Federal action on that area passed about the same time if you recall. So that it's one of these things that is developing, such as the housing patterns are changing, the educational patterns are changing. All of these things are changing and meshing together to bring

about the very situation that you want. I think we are going to achieve it regardless of this lawsuit.

MR. KORBEL: I have nothing further, Your Honor.

CROSS EXAMINATION

By Mr. George:

Q. I think there may have been a little confusion. You testified in response to Mr. York that one of your first orders of business upon entering the Texas Legislature was to try to repeal the poll tax and restrictive voter registration system.

A. I don't recall testifying that that was one of the first orders of business when I went into the Legislature.

Q. It was one of your primary concerns?

A. It was one that I had been actively interested in ever since I've been in the Legislature,yes.

Q. Okay. And you said that that, -- I believe your exact words were that there was a registration difficulty.

A. Yes, we have had more trouble getting them registered than we have getting them to vote. You have problems in both areas. I'm not trying to undermine that.

Q. I understand that. I just wanted to find out if you believe that some of your continuing difficulty in registration was the result of this history of registration difficulty, restrictive statutes and the poll tax. Do you think

there is some holdover effect of those in the registration?

A. Oh, I doubt it. I don't think the average voter thinks two years back when he goes --

Q. The Mexican-American citizen who is 60 years old and has never voted before doesn't think about those things, who didn't have a $1.75, who didn't know that they had changed the law from January to all year?

A. Well, you'd be surprised, I tell you. I don't know how much contact you have had at the grass roots level like that, you are going to be surprised how little about governmental processes many, many people -- and it has nothing to do with race, creed or color. It's the economic strata really that is the factor.

MR. GEORGE: Thank you very much.

CROSS EXAMINATION

By Mr. Bonner:

Q. One or two fast questions, Mr. Hale.

A. I'll try to give you some fast answers.

Q. Okay. Were you in the legislature when the legislature agreed or voted to allow Harris County to be divided up into single member districts?

A. Yes.

Q. I believe you testified that --

A. I voted for that amendment.

Q. Okay. I believe you testified that the reason the State adopted the multi-member district scheme was because of it's reaction against the ward politics of the 19th century, is that correct?

A. I think that was historically one of the reasons.

Q. Since you've been in the legislature, can you tell us what led the legislature to make a departure from this tradition with regard to Harris County.

A. The Federal courts.

Q. Specifically what?

A. Well, you see, we got into areas there where it became intolerable when you reached a certain size. Harris County had reached a size, and in the legislature when that was first done, and I'm sure you are familiar with the history of this, the first breakdown in Harris County was not the single member districts. The first breakdown in Harris County was to divide the county into three representative districts. Two of them elected six, one of them elected seven. At that time Harris County was entitled to 19 representatives.

And the reason behind that breakdown, and I believe Bob Eckhart had a hand in writing that, if I'm not mistaken, was the fact that Harris County had grown to such a size that 19 running at-large, the voters were so confused that they couldn't get to know any of them.

So, during that session of the legislature, the

redistricting committee reached a policy decision, right or wrong, and I did not necessarily agree at the level which they set this, but they set the breaking point at 15. If a county has more than 15, 15 or more or more than 15, if the county has more than 15 we would break it into smaller units. If it has 15 or under, we would leave it as a multimember district. At that time in the committee I argued that the breaking point ought to be lower than 15. I felt like it ought to be somewhere around 5. I argued for five at that time as being the breaking point.

JUDGE WOOD: There has been some mention about a million people in this testimony. That's not the criteria that the legislature chose to follow? It's 15 in number and when it goes above that, they automatically put them in single member districts, is that right?

THE WITNESS: Well, it wasn't automatic, Judge. But the legislature did in that session break Harris County down because it had gone above the 15 level.

JUDGE WOOD: But it's automatic now?

THE WITNESS: It seems to be.

Q. (By Mr. Bonner:) Are you aware of course that the delegation from Dallas County was composed of about 18 people as of 1970, is that correct?

A. More than 15. They should have been broken according to the Harris County policy.

Q. But they were not, isn't that right?

A. We didn't pass a redistricting bill at this last session.

Q. Just one or two more small quick matters if you will. Were you here when I believe it was Representative Ed Harris from Galveston who testified?

A. You mean here in the Courtroom?

Q. Yes.

A. No, sir, I wasn't.

Q. You didn't hear his testimony. What is your opinion of him as a legislator and as a person familiar with the legislative mechanism?

A. Ed is a fine representative. He has done an excellent job for Galveston County.

Q. As I recall his testimony, Representative Harris stated that the real reason the Legislature didn't pass the redistricting bill in this past session was because of opposition from Tarrant County. Would you agree with that?

A. No, I don't necessarily disagree with that. As a matter of practical politics there was a big fight in the Tarrant County delegation during the session. Now, I can't give you the details because I tried to stay away from it. I didn't want to get involved in their delegation battles, but there was a lot of friction in the Tarrant County delegation. And there was a lot of manuevering in committee and

otherwise as a result of this situation. Yes,sir, that certainly true.

Q. So that either as a result of the schism or because of the uncertainty of the rest of the legislature as to the position of the Tarrant County delegation, the redistricting bill was not passed at the last legislature.

A. Well, I was not in favor of passing a redistricting bill. You find a lot of members who are not in favor the last time because we want some definitive guidelines. I would prefer to keep Nueces County as a multi-member district. And as long as it's constitutionally permissive for us to do so, I would vote that way as a policy decision which we would make in the legislature.
Now, if the Court tells us that we can't continue multimember districts under the Illinois case, we don't need that standard. If we've got to break it down, then I say the first time we meet after we get those guidelines we'll do the job and we'll do a good job.

Q. But it is true that the legislature has not consistently followed it's own guidelines with respect to redistricting, is that fair?

A. Well, of course the thing you speak of as guidelines are very tentative in nature because of the fact that one session of the legislature can't bind the next session. We set this 15 member guideline, the redistricting committee

in the 1965 redistricting bill set this guideline at 15. But the next time we got into a redistricting bill two years later, the redistricting committee membership had changed. And they were not necessarily governed by a guideline that the previous committee had set. That's the reason for that. It is because of the personnel change.

MR. BONNER: Okay. Nothing further.

JUDGE GOLDBERG: Let's take a 15 minute recess.

(The Court recessed at 3:45 and resumed at 4:00.)

JUDGE GOLDBERG: Now, are you all through questioning this witness?

MR. KORBEL: I have one question to ask the witness, Your Honor.

JUDGE GOLDBERG: All right, Mr. Korbel.

CROSS EXAMINATION

By Mr. Korbel:

Q. How many Mexican-American State Representatives, how many State Representatives of Mexican-American descent have served in Austin from Nueces County since Reconstruction?

A. Well, I can't speak from reconstruction.

Q. From your knowledge.

A. We had only one representative representing Nueces, Jim Wells and Duval County for many years, up until the 1951

reapportionment. Since the 1951 reapportionment when we first went to multi-member districts, there have been two elected, Mr. Tony Bornillo and Mr. Carlos Truan.

Q. Isn't it correct that Nueces County is 45 percent Mexican-American?

A. I have the census figures here if you will permit me to look at my notes. 51 percent white, 5 percent black, 43 percent chicano and one percent other in Nueces County according to the 1970 census figures.

Q. How do you explain the phenomenon that only two Mexican-Americans have been elected in such a long time?

A. Well, on the explanation that there have been very few candidates in some elections. For instance we had only one race down there this last time for District Judge.

Q. For the state house of Representatives.

A. It involved an Anglo versus a Mexican-American, and two very fine men. It was a close race and it was hard to make a choice. You wanted to vote for both of them because they are both outstanding people. We frequently have had that situation in the legislative races.

Q. For the State House of Representatives, why is it that there have only been two from the House of Representatives.

A. It just so happened that way, Counsel. I don't know.

Q. Why is it that there have been only five Mexican-

Americans elected to county wide positions since reconstruction. Why is that? Can you explain that?

A. When you go back to reconstruction, you are going back a year or two before I was born.

Q. Let's say in the last 20 years then.

A. We are only concerned as I understand this lawsuit which involves multi-member districts, we didn't have multimember districts until 1953. -- the 1951 reapportionment. So it seems to me that whatever happened prior to that time was historical memory.

Q. How can you explain the minimal impact of Mexican-Americans on Nueces County politics?

A. I think the explanation on it, Counsel, is one that I have already gone into to some degree. I think it's the result of housing pattern discrimination, of educational lack of opportunity. For instance, you ask me how many doctors do we have Latin American or how many lawyers. You will find the percentage real low. Why? It's not necessarily discrimination politically that's doing that. It's the educational process and the entire background that we are trying to overcome and trying to do it on a basis that it doesn't fragment the community and doesn't polarize the community. I think polarization is bad in any area. And I think you would agree with me on it. What we need to do is to get the people together and not spread them apart. We need to emphasize what

we have in common and not what our differences are.

MR. KORBEL: I have no further questions.

EXAMINATION

By Judge Goldberg:

Q. Mr. Hale, Representative Hale, I know that you have a long history of interest in public education in Texas,appropriations for public education. Did I understand you to say it was your opinion the Corpus Christi Independent School District was a desegregated school district by your definition?

A. Judge, what I said was that we are not a segregated school district. Again, you get into a question of terminology. For instance, we do not have any policies of segregation in our system.The Delmar Junior College District opened it's doors to all races, creeds and colors voluntarily. The school district opened the door of any school to any child that wanted to go there. We've got a transfer policy where any child can transfer to any other school in the entire system unless they are going from a minority school to a majority school. So that what I'm saying is that there is no policy at this time of attempting to maintain a segregated school system.
The segregation is the result of housing patterns and economic patterns and other factors in our life other than the school board itself.

Q. I'm not suggesting the reasons, I'm simply asking you as an expert, you've been asked about a lot of other matters and I think you are an expert in the education field--

A. I'm in doubt about that.

Q. You want us to understand your testimony that the Corpus Christi Independent School District qualifies as a segregated School District.

A. Well no, not under the standards laid down by the Court. Now, that matter is in litigation now,and as you know, Judge Cox has the plan. The latest plan that was submitted down there was unacceptable and he has had several conferences with them and has instructed them to submit a new plan. They are working on a new plan now.

Q. One other question about the Corpus Christi Independent School District. There is a street in Corpus Christi called Ayers Street, isn't there?

A. Yes, sir.

Q. Has there been any scholastic migration between the Mexican-Americans living on one side of that street and the Anglo living on the other side of the street in order to achieve any greater degree of desegregation in the Corpus Christi Schools?

A. I honestly don't know, Your Honor.

Q. You do not know?

A. I don't know.

Q. You do not know whether or not Ayers Street represents a corridor of segregation, do you?

A. Well, I've heard that term used for the first time in the Courtroom today while I was sitting out here. And they had a map here showing a corridor. I took down the precinct numbers off of the map during the noon recess. Unfortunately the figures I have are by census tracks because that's what we have to operate on reapportionment. I don't have it by precincts. I was going to compare the breakdown in their corridor according to the US Census figures, but I haven't been able to do it yet. I have not heard that term "corridor" until I hit the Courtroom here today in applying to that area of Corpus Christi.

Windsfield Junior High School is on Ayers Street out there and it's on the south side of Ayers Street, if that's of any significance. But again, the fact that there are schools there, you'll find schools, if you are talking about they are not desegregated, because you'll find one school that predominately Mexican-American. There are other schools that are predominately Anglo-American. But its' because of the housing patterns, Judge, and not because the school board decreed that only Mexican-Americans can go to this school and only Anglos can go to that school. It is a fact --

. Representative Hale, you have told us, and I'm quite in agreement with you, that you think the educational process is a very important thing in the development of our society. You say there should be more Mexican-American doctors if they had better educational background and there would be more lawyers. I assume that you think desegregated education would go toward that end. Is that right or wrong?

A. I don't know the answer to that, Judge. I've read a lot in that area. I don't know whether desegregation is going to help that or not. But I do think they need to raise the level of educational opportunities in all areas of our society and in all economic strata including race, creed, color, or whatever. I think that our educational system leaves a lot to be desired.

Q. Then I'll ask you one final question. Assuming without arguing further that the Corpus Christi Independent School District is not a desegregated school system, just assume that, I'm not asking you to say so.

A. Yes, sir.

Q. And assuming that the Mexican-American community is interested in desegregated education, whether they are right or wrong, assume that they are, because I think the testimony in this record would show that they are, do you think that the input, the political input in Nueces County by the Mexican-American community or their ability to interpose that input has been a significant

factor or an insignificant factor in achieving desegregation.

A. I'm not sure that I understand the question now, Judge.

Q. I'll try to repeat it. Assuming that desegregation is a norm that the Mexican-American community would like to achieve, whether you think it right or wrong, assume that's the dominant philosophy of those people.

A. We'll assume that.

Q. Assume that. I want to know if you think that they have been effective politically in achieving that system if you take my assumption that the Corpus Christi School System is not a desegregated system.

A. Well, if you assume that it's not desegregated, I suppose you would have to say nobody has had any effect on it.

Q. Your answer then would be that it isn't the fact of the lack of input on the part of the Mexican-American community that has failed to do that, but it's the failure of the entire community if it was a desirable objective.

A. I certainly would accept my part of the responsibility in the same way that I do on the inadequacies of any of our schools here, that we could do a lot more than we have done in all areas. I think I see what you are getting at now, and I am inclined to agree with you, Judge. I think

that we do need to increase the input from all of these minority groups into the political process in every way we can. And again, I think that the reason that we haven't had a greater input politically from the black community or from the Mexican-American community is the same identical reason that we don't have very many black lawyers or we don't have very many Mexican-American doctors. It all gets back to the basic underlying causes that have allowed this situation to grow up in this form and pattern.

Q. As you have pointed out, housing and education.

A. Housing and education, yes.

Q. And their political input is necessary.

A. Well, the political input as you educate people I think the political input follows. It follows education.

JUDGE GOLDBERG: Thank you very much.

EXAMINATION

By Judge Justice:

Q. Are you familiar with the original decision of the Supreme Court in Brown versus the Board of Education?

A. In a general sort of way, yes, sir.

Q. Do you agree with the decision of the Court in that instance that a segregated education is inherently unequal?

A. Yes, sir. I agree basically with the decision of

the Court in the Brown case. Yes, sir.

Q. Do you agree with the decision of the District Court in the Cisneros case to the effect that Mexican-Americans constitute a separate ethnic minority, and as such if they are in a separate school they are in a segregated school. If a school is composed entirely of Mexican-Americans, that it is a segregated school?

JUDGE WOOD: They are not a minority, they are a majority.

JUDGE GOLDBERG: If the school is 90 percent Mexican, would you call it a Mexican school?

THE WITNESS: Well, Judge --

JUDGE JUSTICE: That's what I'm asking. I'm asking you whether or not you agree with that decision.

A. Yes, sir, the Cisneros case, yes, sir, I think that we have a lot of progress to make in Nueces County.

Q. I don't believe you have answered my question. My question is would you agree with the holding of the Court in that particular case. Whether you do or not, I respect your right to agree or to disagree. But I'm just asking you what is your opinion.

A. No, sir, I think basically that the Court was correct in it's ruling. But, if we have a difference here, it's on whether or not the School Board has deliberately brought that situation about. And that's the area where I think we are in

disagreement. It seems to me that it has grown up by virtue of housing patterns and other things, other than the overt act of the school district in just saying we are not going to have desegregated schools.

Let me call your attention to one thing that you may not be aware of, Your Honor, and that's this, you talk about the Mexican-American being an identifiable ethnic minority group, in the school system that was prohibited up until the Federal Court changed it.

Q. What was prohibited?

A. The Mexican-American community for years has protested to the Texas Education Agency over the fact that in assigning out minimum foundation school funds that they identify them as Mexican-Americans on the school records. They wanted to be identified under the category of white rather than as a separate identifiable race.

So about eight or ten years ago,and I'm not sure exactly when this came about, as a result of that activity the Texas Education Agency eliminated that breakdown on it, and as a result, the statistics did not show it. At the time the Cisneros case came up, the school board could not give you an accurate count of who was Mexican-American and who wasn't because they didn't heep the statistics in that form.

Q. Now that they know, are they making and progress in desegregation?

A. Well, progress is certainly moving slow, Judge. It is certainly moving slow.

JUDGE JUSTICE: That's all the questions I have.

JUDGE WOOD: I have no questions.

JUDGE GOLDBERG: Anyone else? All right, thank you very much. You can get of the straight jacket now.
Now, has everybody rested?

MR. YORK: We hope to rest tomorrow, Your Honor.

JUDGE GOLDBERG: Hasn't everybody finished?

MR. YORK: Yes, we are finished, Your Honor.

JUDGE GOLDBERG: Give the benediction.

MR. YORK: We have a variety of exhibits which Mrs. Levantino will tender. And we also have the deposition testimony which has been taken in various counties and which is fairly voluminous which we will tender into evidence.

JUDGE GOLDBERG: That will all be filed. And you all cooperate to that end. Is that right?

MR. YORK: Yes, sir.

JUDGE GOLDBERG: I want to begin now to discuss with all of you---

JUDGE WOOD: Wait just a minute, what about the attorney's fees? I have a note that they were going to check on it. Did you agree with them?

MR. YORK: I thought we could submit that by a later stipulation.

JUDGE GOLDBERG: You were going to stipulate that, and if there was any problem we'll see about it later, is that right?

MR. YORK: Yes, sir.

JUDGE JUSTICE: As I understand it, you still want to tender some exhibits that have not yet been offered?

MR. YORK: We do, yes sir.

JUDGE GOLDBERG: Have you seen them?

MR. RICHARDS: Yes, and we have certain objections to them. I could state them in writing in my brief.

JUDGE GOLDBERG: That's fine. Let's don't have any problem about getting them in here, getting the objections made and we will take everything under consideration.

JUDGE JUSTICE: We had better let her identify exactly what she is going to offer.

JUDGE WOOD: Are those identified, Mr. York, by exhibit numbers?

MR. YORK: Yes, they are marked and I believe Counsel has seen them.

MRS. LEVANTINO: We would like to offer Defendant's Exhibits 1 through 12 relating to campaign expense reports of certain candidates. Exhibits 13 through 32 which are house journals reflecting certain bills and votes taken on those bills during the Legislature. Exhibits 33 through 36 which are the election returns in El Paso County for the

Democratic Primary elections of '70 and '72 and the general elections of '70 and '72. And Exhibits 37 through 42 which are depositions of Tom Moore, Felix Tijerina, Terry Doyle, DeWitt Hale, Travis Peeler and 42 should be Madison Sowder. I can't find it in this set here, but it should have been filed with the Court. I've got a copy of it if you don't have it there. I will leave you a copy. And that's all we have to tender.

JUDGE JUSTICE: All right, they will be received in evidence subject to the objection which will be found in the briefs of Counsel.

JUDGE GOLDBERG: Now, has everybody completed their housekeeping and so forth?

Let's all gather up here and let's see how we are going to work out the rest of our housekeeping problems. Come up closer to that everybody can hear me.

In the prior case, you all recall we came down with out opinion before the filing date. It is our hope, our wish and our ambition-- I don't want to start having orders changing filing dates, we've got enough problems in addition to everybody else's problems. Now, I realize that it's December and I realize that it is Christmas and I hate to burden you with what we are going to have to do, but I don't see any end to this. Anyway, we are going to ask for simultaneous briefs, simultaneous briefs filed by anybody

and everybody including you or whoever you are, we'll call you the ghos , by the delivery of one copy or all that's necessary to our respective offices as one with the clerk here. To the extent that it is humanly possible in these briefs, I want each of you to give us references to the depositions and the page numbers, and the same thing with respect to exhibits. It's just going to expedite what we have to do. And to the extent that you can, to the testimony that we have on trial here. You can't do it perfectly, you'll just have to refer to it. But do your very, very best because it's just going to help us along in what we are trying to do.

It seems to me that we will then attempt to write an opinion well enough in advance of the filing date so that if anything has to be done, I don't say that it will, I certainly have not made up my mind on anything, but it may be necessary that we meet again and discuss what we do from the opinion forward.

I'm not anticipating that because I don't know. But this would have to be done in the early, early part --- when I say early part, it will have to be done during the month of January. It couldn't be done in the first part. We couldn't possibly digest everything in the briefs, read the record and do everything we are supposed to do and come

out with an opinion much before the middle of the month of January.
And I understand the filing date is February 6th. Am I right or wrong about that?

MR. YORK: I believe that's right.

JUDGE GOLDBERG: I've got a calendar here. Representative Hale, is it the first Tuesday--or what is it?

REPRESENTATIVE HALE: Judge, when you started talking about that, I was afraid you might ask me. I believe it is the first week of February.

JUDGE GOLDBERG: We are going to try to beat that deadline.

REPRESENTATIVE HALE: I believe it's on Monday, Judge. The first Monday in February, I think.

JUDGE GOLDBERG: Thank you very much. Now, of course the briefs as far as I'm concerned, speaking for myself, I tell all of my clerks I don't worship at the shrine of succinctness, but that doesn't mean anything if you have read any of my opinions because you know I don't. But that doesn't mean you should write forever because we haven't got enough time. You worship at it this time and see how we get along. Do you have anything to add?
Oh, one other thing. As I understand it, am I wrong about this, that you each have copies of the depositions

but there's not enough copies of the depositions to go to each of the judges, is that correct?

MR. YORK: I'm afraid that is correct.

JUDGE WOOD: How many copies do we have of the depositions?

JUDGE GOLDBERG: How many copies of the depositions were made?

MRS. LEVATINO: Well, we got one copy of all of them plus an original.

MR. RICHARDS: I have just those that I took in the cases I'm responsible for. I can xerox mine and make them available.

JUDGE WOOD: If we could have the original that's on file with the Court and if you could get together and send us copies of all of the depositions, that will save us a great deal of time. We can have those right away.

JUDGE JUSTICE: Each Judge wants a copy.

JUDGE WOOD: Rather than having to transmit them back and forth, and this way we can start reading those now.

MR. GEORGE: I don't think there is any problem.

JUDGE GOLDBERG: I forgot to tell you the fatal date.

MR. RICHARDS: Yes, I thought you were going to leave that up to us.

JUDGE GOLDBERG: We are going to have to ask you

[779]

to file your briefs at the close of business on December 21st. I'm sorry that it is the week before Christmas but maybe you can work hard and then enjoy your Christmas better. I don't know what else to do, gentlemen. I'm afraid if we delay it any longer we're going to be in deep trouble. What's your problem.

MR. RICHARDS: Exhibits, can the exhibits remain?

JUDGE JUSTICE: We won't need the exhibits.

MR. RICHARDS: Can they remain here until we file our briefs?

JUDGE GOLDBERG: Yes, that's all right. You keep the exhibits here and then as we need the exhibits we will get them. Let's keep everything here for the time being. Until December the 21st everything is here except you are going to send us the depositions. And is a copy of this testimony going to be available?

JUDGE JUSTICE: Yes, it will be available by the 18th as I understand it.

JUDGE GOLDBERG: Now, is there anything else that you have?

JUDGE JUSTICE: Let me see if I understand this correctly. Immediately upon the filing of the briefs, you are going to send each individual Judge a copy of the depositions.

MR. RICHARDS: We can do it in advance of that

[780]

date.

JUDGE WOOD: Do it right now. During the first trial we were trading them and reading them at night during the trial because we didn't get as early a start the last time as we did this time. We got through it quicker. But the sooner we get those depositions, the quicker we will start to work.

JUDGE GOLDBERG: Seriously, I do want on behalf of all of us to not only thank you for your cooperation in the Courtroom, but cooperating in order to bring the case to the Courtroom, and you all have been very cooperative and I know that I speak for all of us. I've enjoyed every minute of it and I hope that I have not exhibited too much impatience.

With that, the Court will stand adjourned and you will hear from us.

(End of proceedings.)

COURT REPORTERS' CERTIFICATE

WE, ERNEST C. SWANSON AND DOROTHY DAUGHERTY, Official Court Reporters in and for the Western and Eastern Districts of Texas, do hereby certify that we reported the above styled case in shorthand and later reduced our shorthand notes to typewritten form under our direction, and that the above and foregoing constitute a true and correct transcript of said proceedings.

Signed by me this the 12th day of December, 1973.

ERNEST C. SWANSON
OFFICIAL COURT REPORTER

Signed by me this the 14th day of December, 1973.

DOROTHY DAUGHERTY
OFFICIAL COURT REPORTER

A P P E A R A N C E S:

HON. DAVID E. RICHARDS
Clinton & Richards
600 West 7th Street
Austin, Texas 78701

ATTORNEYS FOR INTERVENORS
CHARLES WRIGHT, ET AL

HON. R. JAMES GEORGE, JR.
Graves, Dougherty, Hearon,
Moody and Garwood
Austin National Bank Building
Austin, Texas 78701

ATTORNEYS FOR LOCAL AND STATE
REPUBLICAN PLAINTIFFS AND
INTERVENORS

HON. GEORGE J. KORBEL
501 Petroleum Commerce Building
201 North St. Mary's Street
San Antonio, Texas 78206

ATTORNEY FOR PLAINTIFFS
GONZALES, ET AL, AND
INTERVENORS MORENO, ET AL

HON. J. PHILLIP CRAWFORD
P.O. Box 6277
Austin, Texas 78762

ATTORNEY FOR PLAINTIFFS
CHAPMAN, ET AL

A P P E A R A N C E S:

HON. NORMAN M. BONNER, JR.
SUITE 838 Baker Building
7th and Houston Streets
Fort Worth, Texas 76102

HON. GEORGE MARTINEZ
934 - (Suite)
555 Griffin Square
Dallas, Texas 75201

ATTORNEYS FOR PLAINTIFFS
AND INTERVENORS GASKIN, ET AL

HON. DON GLADDEN
702 Burk Burnett Building
Fort Worth, Texas 76102

ATTORNEYS FOR PLAINTIFFS AND
INTERVENOUS FRANK A. ESCALANTE,
ET AL

HON. JOHN HILL,
Attorney General,
HON. LARRY F. YORK and
HON. ELIZABETH B. LEVATINO,
Assistant Attorneys General
P.O.Box 12548
Austin, Texas 78711

ATTORNEYS FOR THE DEFENDANTS

BE IT REMEMBERED that heretofore on the 28th day of January, 1974, before a three-judge panel consisting of the HONORABLE IRVING L. GOLDBERG, Circuit Judge for the United States Court of Appeals, Fifth Circuit; the HONORABLE WILLIAM WAYNE JUSTICE, United States District Judge for the Eastern District of Texas; and the HONORABLE JOHN H. WOOD, JR., United States District Judge for the Western District of Texas, the above Civil Actions came on for Oral Hearing on the Presentation of Plans for redistricting, at which time the following proceedings were had:

CLERK OF THE COURT: Civil Action Nos. A-71-CA 142,143, 144 and 145, and No. A-73-CA-115, 146 and 155, styled Regester, Et Al, versus White, Et Al for a three judge hearing.

JUDGE GOLDBERG: Good morning, ladies and gentlemen. I take it all Counsel have identified themselves to the court reporter, presences indicated and people represented?

JUDGE JUSTICE: No the court reporter is shaking her head. They have not.

JUDGE GOLDBERG: Have not?

Please stand and give your name and who you represent.

MR. GLADDEN: My name is Don Gladden from

Tarrant County. I am here representing the Plaintiffs Escalante, Et Al.

MR. CRAWFORD: I am J. Phillip Crawford, Travis County, and I represent Chapman, Et Al.

MR. GEORGE: I'm R. James George. I represent the Republican Plaintiffs, the Honorable Jack Warren, Et Al.

MR. RICHARDS: David Richards. I represent the Intervenors Charles Wright, Et Al.

MR. KORBEL: George Korbel. I represent the Intervenors Moreno, Et Al.

MR. BONNER: Norman Bonner of Tarrant County. I represent the Plaintiffs Gaskin, Et Al. My colleague is George Martinez from Dallas.

MR. YORK: I'm Larry York, Your Honor, and Liz Levatino. We represent the Defendants, Briscoe and White.

MR. MOORE: Tom Moore, Jr., along with Judge W. C. Haley, Waco, Texas, representing McLennan County, subject to being stricken.

JUDGE GOLDBERG: Subject to being what?

MR. MOORE: Stricken.

JUDGE JUSTICE: At an earlier time Representative Moore from McLennan County asked permission to file a plan. I told him to file it

with the Clerk, and that it could be filed subject to being stricken by the Court.

JUDGE GOLDBERG: He just filed a plan?

JUDGE JUSTICE: Yes, as I understand it.

JUDGE GOLDBERG: We're assembled here this morning to write an epilogue, and I hope it follows the tradition of epilogues and will be very, very short.

I want to make a few observations which might be helpful in this regard. The Court felt that you should be heard and a minimum or modicum of testimony received, if such be necessary, to support or in derogation of plans before the Court. We are not here today concerned with the issue of whether or not the counties that are to be apportioned -- whether or not that decision is correct or incorrect. You will have to go up for that decision. On the horizontal plane this morning that issue has been decided by a majority of the Court.

Before the day is over you may hear from one of the judges or maybe more than one with respect to a generalized statement on that issue. I wish everyone would keep in mind that this case -- that we have in the record in this case ethnic

demographic information covering a very, very wide spectrum. All of this has been examined and studied by the Court. If there is anything that is of vital significance with respect to plans, we, of course, want to hear it, but we do not want any repetive testimony or evidence. We don't think it is required nor appropriate at this time.
Now, as a friend of Counsel I would like to make a suggestion -- all Counsel -- I think you could best spend your time telling us why your plan or anybody else's plan is a plan that ought to be adopted for a specific county or a criticism of all the plans, using the material and the testimony and the evidence that is before the Court by way of records, but if irresistible urge is upon you that more testimony and evidence is required to illuminate the Court, well, we're not going to cut off the incandescence.
Having made these few preliminary remarks, I'm going to do as I did before, turn the mechanics of this over to Judge Justice.

JUDGE JUSTICE: Ladies and gentlemen, we have decided to take up the relative merits of any plans that might be offered to the Court in the same order in which we have treated them in the

majority opinion of the Court which has been prepared, and they are as follows -- in other words, we would like presentations in this order. Tarrant County, Jefferson County, -- I don't have the district numbers before me, but I think this will be sufficient to identify them --McLennan County, Travis County, Lubbock County, El Paso County and Nueces County.
Is there objection to this method of proceeding?

MR. RICHARDS: No objection.

JUDGE JUSTICE: If not then, we will begin with Tarrant County.

MR. GLADDEN: Excuse me, Your Honor. Does that mean everybody's plan regarding Tarrant County is to be presented, and then--?

JUDGE JUSTICE: And then we'll go to another county. Yes, does the Attorney General have some comment?

MR. YORK: Your Honor, the Court may not be advised that pursuant to an order the Court entered this week that several plans have been adopted by the Defendants as their own. One was adopted very late, and the Court may not be aware of that. It will have a bearing on how the

plans are presented.

JUDGE GOLDBERG: I can't hear you.

MR. YORK: The Defendants have now adopted five plans of these several counties, so that the Defendants---.

JUDGE JUSTICE: Adopted plans of non-parties? Is that what you're saying?

MR. YORK: Adopted plans of non-parties, and in one case, Your Honor, in Tarrant County, there is a difference in three districts between the earlier sealed plan which has been submitted and the plan which the Defendants now adopt. We had been advised that there might be some who would object to the Defendants adopting these plans. We would think it might be appropriate to have some view from the Court on that procedure, because that ruling might affect and would affect the manner in which we would present the rest of our proof. We would assume that the Court would not bar any of these plans from being heard and evidence being heard on these five plans. In that connection we also want to urge the Court to reconsider its ruling that it would not hear evidence in the other counties from non-party plans, non-sealed plans unless they have been

adopted by the parties, because to allow parties who are here to comment on plans which are here and sealed without allowing the people who have filed the sealed plans to defend their plans or to comment on the party plans we feel would be unfair.

JUDGE JUSTICE: Well, our only purpose, of course, in making that particular ruling is in the interest of time, and if we allow nonparties to come in at this late stage, I can foresee that this hearing might extend over several days, and we simply don't have that kind of time.

MR. YORK: We understand the Court's reasoning in that regard, but, nonetheless, we think it is important that the Court hear that evidence.

JUDGE GOLDBERG: Evidence with respect to what now?

MR. YORK: Evidence with respect to nonparty plans, sealed plans which have not in some cases been adopted by any of the Defendants or by any other party.

JUDGE GOLDBERG: If that were permitted, how much testimony do you have?

MR. YORK: I think that first of all on the

five or so plans that have been adopted by the Defendants White and Briscoe, rather than having the lawyers talk about the plans we would propose to put one witness on for each one of those counties who is from the county who is most familiar with the plan and, we think, can more expeditiously explain the plans to the Court than can we as lawyers from Austin. The other two counties, there will be probably one or two or more witnesses who would want to testify from those counties about those plans, but not more than three or four witnesses.

JUDGE JUSTICE: Well, what counties? Let me put it this way--what counties---?

MR. YORK: Have not?

JUDGE JUSTICE: ---have not had plans submitted which the state has adopted?

MR. YORK: El Paso, Your Honor, and Travis.

JUDGE JUSTICE: What about McLennan County?

MR. YORK: Yes, sir. McLennan County is -- probably the group that Judge Haley and Mr. Moore represent would fall into this category of sealed nonparty plans that we would urge the Court to allow be heard in this proceeding.

JUDGE JUSTICE: I don't understand. You say you have not adopted a plan?

MR. YORK: We have, Your Honor. There has been a plan adopted for McLennan County.

JUDGE JUSTICE: Does it coincide with the one urged by Representative Moore?

MR. YORK: No.

MR. RICHARDS: It coincides with the Plaintiffs' plan. I thought we had closed out McLennan County. Everybody was agreed up there.

JUDGE GOLDBERG: You want testimony on McLennan?

MR. YORK: We would like from our standpoint-- from the agreed plan or the adopted plan we do not wish to offer any, because it is the same as the Plaintiffs'. We do think that--other people have come. If they do want to present testimony they should be allowed to do so, Your Honor.

JUDGE GOLDBERG: Well, being as charitable as we possibly can within the limitations, we will hear such testimony with my prayer again that you make it as short as possible.

MR. YORK: Could we, if we may, just have one or two more---?

JUDGE JUSTICE: What we're saying is that Representative Moore may be heard.

MR. YORK: This may not be the best time---.

MR. MOORE: May it please the Court, we would appreciate being heard. We don't have any testimony.

JUDGE JUSTICE: You just want an argument. Is that it?

MR. MOORE: Yes, sir.

JUDGE GOLDBERG: Mr. York?

MR. YORK: We would like at some point, Your Honor, to raise with the Court the problem of the filing deadline. As the Court is aware the filing deadlines in the district that involved Galveston, District 17, and 19, which are Galveston, Chambers and Harris County, goes into all those counties. In view of the Court not single-membering Galveston County, it would seem that that filing deadline could be rolled back---.

JUDGE WOOD: Well, I believe they are single-membering. They're just leaving it up to the Legislature. You're talking about the plans for it at this time, but the majority holding was that Galveston was unconstitutional, too.

I notice that the Associated Press, the entire press, it was reported in Time Magazine--all the counties except Galveston and Hidalgo were declared unconstitutional. They were declared as constitutionally permissible. Galveston is also being, as I understand it, gentlemen, declared unconstitutional. I think we ought to let the lawyers know exactly how we stand on this matter.

MR. YORK: I'm sorry, Your Honor. We just did not know that we---.

JUDGE JUSTICE: We're not granting any affirmative relief at this time in relation to Galveston County, and I think your suggestion as to Galveston County, rolling back the filing deadline might very well be in order.

MR. RICHARDS: We certainly have no objection to rolling back of the filing deadline in Galveston County, as we have stated before.

JUDGE GOLDBERG: O.K.

MR. YORK: Maybe we had been misled by the letter, but the letter communication we received earlier on Monday had been that seven of the nine counties would be declared unconstitutional, and we had taken that as meaning that the other two would not be.

JUDGE JUSTICE: We're speaking about splitting the counties up in multi-member districts. We were not doing that, obviously, in relation to Galveston County, because that wasn't in issue.

JUDGE GOLDBERG: In Galveston County we are holding that--when I say Galveston County, I mean the district--I don't recall the number now--is a gerrymander, and we're going to leave it up to the Legislature to solve that within two years approximately.

MR. YORK: In other words, simple moving of the census tract and not a multi-member---.

JUDGE GOLDBERG: Precisely. Does that help you any?

MR. YORK: That does, and, Your Honor, additionally in the other counties where the deadline has been moved to February 18, we would move the Court to bring that deadline back to February 4th.

JUDGE JUSTICE: What other counties are you referring to?

MR. YORK: The other seven, the whole group.

JUDGE JUSTICE: Why would you want this done?

MR. YORK: Because, Your Honor, there are just intense problems involved in trying to run an election with a dual filing deadline. Secretary of State White is here. We would like to present some testimony to the Court about that problem. There are incumbents. There are nonincumbents who are interested in these races, who are being hurt and hurt badly because they are not allowed to file at the same time other people interested in offices in those counties are allowed to file. Everybody is allowed to have a look at who is going to file for those other offices, and beyond those problems there are very serious problems related to the Ethics Bill, filing of statements, filing of campaign statement, et cetera, et cetera, which Secretary White is very familiar with, and we would like to urge the Court to hear that testimony and evaluate it in deciding whether to move this deadline back to February 4 and let everybody have the same shot.

JUDGE GOLDBERG: At the very end---.

MR. RICHARDS: Your Honor, it may be that the Plaintiffs will be willing to accede to that.

JUDGE GOLDBERG: Let's hear it at the very end. That doesn't bother you does it?

MR. YORK: That's fine, Your Honor, and one final thing, then I'll sit down, if I may impose on the Court that long---.

JUDGE GOLDBERG: You may take longer than that.

MR. YORK: Just to say in one sentence that we would reurge the Court to allow the Legislature to draw these plans. In that connection the Court should be advised that we have proposed to other Counsel on behalf of the Defendants Briscoe and White that if they would agree not to ask the Court to draw the plans but let the Legislature do it in the next regular session, then the state would not appeal the Court's findings on the seven districts. We made that proposal to Counsel last week, and we talked about it, and we think that the Court should probably be advised of that development in the case.

MR. CRAWFORD: Your Honor, if it please the Court, in behalf of Chambers and White, et al (sic) we have read and analyzed and have totally rejected as unacceptable any compromise of this type. The argument is that we have had since 1969 and since then to come up with a plan.

JUDGE GOLDBERG: Mr. Richards?

MR. RICHARDS: We did receive a letter from the Attorney General on Saturday proposing such a compromise, and it is unacceptable, and we so advise---.

JUDGE GOLDBERG: Just a minute. Do you have something?

MR. GLADDEN: Likewise, Your Honor, we have rejected it, as well.

MR. KORBEL: We have, likewise.

JUDGE GOLDBERG: Judge Wood would like to make a statement.

JUDGE WOOD: I will file a dissenting opinion as to all eight counties, more vigorously to some counties than others. While I received the rough draft, the first rough draft opinion of my learned colleagues last week, I have not yet had an opportunity to see the final draft, which I understand will be filed sometime today. After I have studied the final opinion later today, I will dictate my dissent tonight and perhaps tomorrow and, hopefully, my dissenting opinion will be filed by Friday of this week.

JUDGE JUSTICE: We're not binding outselves to file that opinion today, because we have to adopt a plan with relation to the counties before

we file the opinion.

MR. GLADDEN: If it please the Court, in connection with the first statement of Mr. York, he covered several things at once -- the question of the late filing of their plan, which they say is a modification of one that was originally filed as a non-party plan--on Saturday I was advised by the Attorney General's Office that they were adopting what was filed as the Sherman Plan with 19---.

JUDGE JUSTICE: As the what plan?

MR. GLADDEN: Pardon?

JUDGE JUSTICE: As the what plan?

MR. GLADDEN: The Sherman Plan. Representative Bud Sherman filed with the Court a sealed plan. It was identified in his plan as Plan Y. They advised me that they were filing a plan which contained 19 changes of census tracts shifted among three of nine districts. I spent most of the weekend trying to correlate the 19 changes that were made. It was quite difficult. I don't want to cut off the Governor's opportunity to present a plan on behalf of whomever the plan was devised, but I did want to advise the Court that on November 8, I exchanged or showed the Attorney

General's office a copy of the plan that we anticipated presenting, and we feel like that by January the 18th when this Court set as the deadline for the Defendant's to file their plan, that from November the 8th to January the 18th was plenty of time for the Defendants to resolve whether they wanted to submit a plan and support a plan in opposition to our plan, and for that reason we feel that this morning in filing a plan that was related to the Plaintiffs on Saturday afternoon, the latest time which was about 6:30 P.M. or 6:00 o'clock P.M., is a little bit untimely, and we would like to call it to the Court's attention.

JUDGE JUSTICE: It's untimely, but, as I understand it, you're not objecting to it.

MR. GLADDEN: Well, I really want to apprise the Court of my situation in terms of problems.

JUDGE GOLDBERG: We're fully advised. Let's move along.

JUDGE JUSTICE: Proceed with Tarrant County. We'll hear from the Plaintiffs, such comments or evidence as you desire to present.

MR. RICHARDS: Well, I'll be quick. On behalf of the Plaintiffs Blackmon (phonetic) and

other Plaintiffs in Tarrant County, we adopt and approve the plans sponsored by Mr. Gladden on behalf of the Escalante Plaintiffs. That concludes what we have.

JUDGE JUSTICE: Mr. Gladden, you may proceed.

MR. GLADDEN: Please the Court, I do have just a little bit of evidence. I would like to call Mr. R. C. Johnson.

TESTIMONY PRESENTED CONCERNING TARRANT COUNTY

R. C. JOHNSON

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GLADDEN:

Q. State your name for the Court, please.

A. R. C. Johnson.

Q. You are the same R.C. Johnson who has previously testified in this case?

A. Yes, sir.

Q. In that connection you're the President of the Precinct Workers Council?

A. Yes, I am.

Q. Which you identified in your deposition and your testimony?

A. Yes.

Q. In that connection I'll ask you whether or not as President of the Precinct Workers Council whether or not both the Gaskin Plan and the Escalante Plan have been considered by the Precinct Workers Council in the past and more recently?

A. Yes.

Q. The Gaskin Plan was presented to them during the Legislative session. Is that correct?

A. Yes.

Q. What action did the Precinct Workers Council take in connection with the Gaskin Plan?

A. At our regular Executive Board meeting the plan was presented, and a motion at that Executive Board meeting was made. We recommended to the general body that we support that plan, but at our regular membership meeting a motion was made that we not accept our recommendation of

that plan until we had an opportunity to look at the other plans that were being presented.

Q. Since that time I'll ask you whether or not you have polled all the black precinct chairmen which is the Executive Board. Is that correct?

A. Yes.

Q. Have you polled all the black precinct chairmen as between the two plans?

A. Yes.

Q. I believe all except one. Is that correct?

A. Right.

Q. And I'll ask you what the poll showed.

MR. MARTINEZ: Your Honor, we object to that as hearsay.

MR. GLADDEN: Not asking for what they said, Your Honor, but the results of the poll.

MR. MARTINEZ: Your Honor, it's the same thing. We would object to it as being hearsay.

JUDGE GOLDBERG: Let's let it in, and we'll consider it later if you want to object.

Q. What was the results of the poll?

A. The result of the poll was 17 for, none against and one I could not contact.

Q. Seventeen for which plan, please?

A. The Escalante Plan.

Q. I'll ask you also if you have had occasion to talk with the Plaintiff Bobby Webber in connection with the various plans recently.

A. Yes, I have.

Q. I'll ask you whether or not you and he sat down and discussed his race in 1973---.

JUDGE GOLDBERG: Now, Mr. Gladden, we want to give you a little latitude, but let's don't go beyond the orbit.

MR. GLADDEN: All I want to do, Your Honor, is to get into evidence some tabulations that were made by these two parties that reflect how Webber would have run in two of the districts.

JUDGE GOLDBERG: We couldn't derive that from the testimony before us?

MR. GLADDEN: No, Your Honor, because in the runoff the statistics are not before the Court, in the runoff election.

JUDGE GOLDBERG: Who prepared this exhibit?

MR. GLADDEN: As I understand it, Plaintiff--this witness and Plaintiff Webber.

JUDGE GOLDBERG: Well, let's get on with it as fast as you can.

Q. I show you Plaintiff Escalante's Exhibit 26 and 27. Are those the tabulations you and Mr. Webber

prepared?

A. Yes.

Q. Actually, did he do the writing and you and he compared notes. Is that right?

A. Yes.

(DISTRICT 32-2, VOTES CAST BY PRECINCT IN WEBBER-SHIEFFER RUNOFF RACE -- was duly marked as: PLAINTIFF ESCALANTE'S EXHIBIT NO. 27)

(DISTRICT 32-1, VOTES CAST BY PRECINCT IN WEBBER-SHIEFFER RUNOFF RACE -- was duly marked as: PLAINTIFF ESCALANTE'S EXHIBIT NO. 27

MR. GLADDEN: We offer Plaintiff Escalante's Exhibits 26 and 27 in evidence. We have no further questions, Your Honor.

JUDGE JUSTICE: Is there cross-examination of this witness?

MR. GEORGE: No, Your Honor.

JUDGE GOLDBERG: No cross?

MR. YORK: Your Honor, I think it would be more expeditious for us to put our witness on,

rather than to undertake to cross-examine this witness, so that's what we will do.

JUDGE JUSTICE: All right. Stand down.

(WITNESS STANDS ASIDE.)

MR. GLADDEN: I would like to call Betty Fisher.

BETTY FISHER

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GLADDEN:

Q. Your name is Betty Fisher?

A. That's correct.

Q. You are the same Betty Fisher who testified in the original portion of this trial?

A. Yes, I am.

Q. Mrs. Fisher, you helped prepare the plan submitted to the Court recently, did you not?

A. Yes, sir, I did.

Q. In that connection I'll ask you whether or not there were some slight variations in the tabulations of the statistical information in the plans as compared to Plaintiff Escalante's Exhibit 18(g) prime. Is that correct?

JUDGE GOLDBERG: Eighteen what?

MR. GLADDEN: 18(g) prime. That was the original tabulation.

A. Yes, there were.

Q. Those came about through transpositions and made some very slight variations. Is that correct?

A. Yes, by just miscopying a number.

Q. Now, then, the plan that was submitted to the Court and filed with the Court on the 12th is as nearly as possible the accurate information as to the original plan submitted. Is that correct?

A. Yes.

Q. And the plan that was exhibited to the Court is the same plan that was offered in the proposed plan. Is that correct?

A. That's correct.

MR. GLADDEN: I believe that's all, Your Honor.

JUDGE GOLDBERG: Are you going to put the

corrections in?

MR. GLADDEN: The correct ones were filed with the Court, Your Honor, and we at this time would like to -- if it is required -- tender the plan originally filed.

JUDGE GOLDBERG: All right, any cross?

JUDGE JUSTICE: All right, please stand down.

(WITNESS STANDS ASIDE.)

MR. GLADDEN: Nothing further, Your Honor.

JUDGE JUSTICE: Mr. Bonner, do you have any evidence to present?

MR. BONNER: Yes, we do have some evidence, Your Honor.

JUDGE JUSTICE: All right.

MR. BONNER: We call Dorothy Perez.

JUDGE JUSTICE: Come forward, please.

DOROTHY PEREZ

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. MARTINEZ:

Q. State your name and address to the Court.

A. Dorothy Perez, 2721 Sixth Avenue, Fort Worth, Texas.

Q. And your occupation?

A. Housewife.

Q. Is there anything else you do?

A. I am county secretary for the Raza Unida Party for Tarrant County.

Q. Are you familiar with Gaskin,et al, the plan we submitted to the Court for their consideration?

A. Yes, I am. I designed the plan.

Q. What specific criteria did you use to draw up the plan?

A. Of course, the numerical criteria, the

initial one, 75,055 will be an ideal district, and then we used socio-economic factors, the neighborhood areas, the geographic boundaries as they entered into the situation.

Q. Was there anything else?

A. Also---.

Q. Did you attempt in any fashion to maximize minority participation?

A. Yes.

Q. With respect to Districts A and B within the plan, are those the districts that would maximize in your opinion the maximum minority participation?

A. Yes, in District A,59.3 percent of the population would be minority members, black and Mexican-American, and in District B, 57.8 percent of the population would be black and Mexican-American.

Q. In those two districts Mexican-Americans and black would cooperate to elect candidates?

A. We believe they would, yes.

Q. Are there any other districts that would allow for meaningful participation by minorities?

A. District D has a sizable portion in a community called Como. District E is having an enlarging of its population of black and Mexican-American, and District G is having a movement into the Meadowbrook area, and in a few years that would be more heavily minority. That would be

five districts having a heavy minority population.

Q. And (2) with the probability of election, (3) having an influence on the legislator elected.

With regard to the other districts that are non-minority, what were the basic criteria that you used to put things together to draw the lines?

A. We attempted to keep the suburban communities as a whole, rather than spliting them up, if possible. We also wanted to keep the areas as contiguous and compact as we could.

Q. Could you give us an example, say for District C?

A. District C is highly suburban in area with communities of Richland Hills, North Richland Hills, Colleyville, Keller, these areas were included as suburban communities, along with census tracts which were more rural, but which had more interests in common with those communities.

It looks like a long district because we included those communities, to maximize the minority population, though it does take in a large area.

Q. Have you seen the other plans that have been submitted for Tarrant County?

A. Several of them.

Q. Have you seen the one discussed by the State?

A. No.

Q. Save that, you have seen all the others?

A. I believe so.

Q. And you worked for some years as Raza Unida secretary, you stated. In your opinion will any of the other plans permit meaningful participation by Mexican-Americans?

A. I do not believe so, no.

MR. MARTINEZ: That's all I have, Your Honor.

THE COURT: Is there cross-examination?

MR. YORK: I have just one or two, Your Honor.

CROSS EXAMINATION

BY MR. YORK:

Q. Ma'am, under the plan that you have been testifying about, what would be the likely breakdown of the delegation of the nine members, assuming the things went the way you would expect them to under the plan? How many black and how many brown members would likely be elected if everything went well under the plan?

A. I would think that in District B in all

probability a black would be elected, in District A either a black or a Mexican-American or perhaps a liberal Anglo could win in that one, but in either one, there would be a high possibility of a black and a high possibility of a Mexican-American being able to win there also.

In addition to that, I would say that in District F and District H the Republican Party would have an opportunity to elect candidates.

Q. So you would believe that it would be probably one black for sure and probably a good probability of another black or Mexican-American in the other districts?

A. Yes, a high probability.

Q. And blacks and Mexican-Americans compose what total percentage of the population in Tarrant County?

A. 17.3.

MR. YORK: Thank you. That's all.

CROSS EXAMINATION

BY MR. GLADDEN:

Q. One or two questions. You testified you are secretary of the Raza Unida Party. Is that in the state or in Tarrant County?

A. Tarrant County.

Q. In that connection then you are familiar then that they recently announced that they would field legislative candidates for the Raza Unida primary. Is that not correct?

A. Yes.

Q. In making these calculations did you anticipate the fact that there would be an effort, and I assume that the party would make an effort, to attract Chicanos into the La Raza primary rather than the Democratic primary?

A. Certainly.

Q. Then did you calculate that in your district A or the Gaskin District A you reduced the population of the blacks to 40 percent. Is that correct?

A. I don't understand what you mean by reduced.

Q. O.K., not reduced. You provide for a 40 percent black population in District A?

A. Yes.

Q. With 19.3 percent Chicano?

A. Yes.

Q. And I would assume again that you're going to try to attract at least this 19.3 percent into the La Raza Unida primary rather than the Democratic primary. Is that correct? Is that the purpose of the plan?

A. That is the purpose of the political party,

yes.

Q. Then in District B you have a 47.3 percent black makeup. Is that correct?

A. Yes.

Q. And 10.5 percent Chicano which you anticipate some success at attracting out of the Democratic primary?

A. Right.

Q. I'll ask you whether or not you considered in devising your plans the residual effect of prior discrimination and its resulting reduction of participation by the minorities in the makeup of your plan, or did you go on population alone?

A. Well, we have to consider that naturally there may be higher voting records in the suburban areas, but if the inner city area has a lower voting record, it doesn't make any difference, because you're only counting that population in that area in a single-member district.

Q. So you did not consider whether or not the diminution of the residual effect of the repeal of the poll tax insofar as minorities are concerned?

A. No.

Q. I'll ask you whether or not you considered in making up that district the mean family size of the black community and the Chicano community, as compared to the white

community?

A. I did not.

Q. I'll ask you whether or not you, insofar as Districts C,D,E,F,G,H, and I you considered the effect that your plan would have on the low income white community?

A. I don't understand.

Q. O.K., in making up or drawing your lines for the balance of the districts, the other seven, did you consider whether or not the plans as you devised them would have any effect on minimizing the opportunity to participate in the selection process by low income whites?

A. I don't believe it will.

Q. Did you consider it?

A. Yes.

Q. You did consider whether or not it would have an effect?

A. Yes.

Q. Actually, your mean family income of all but the two primary districts fall above $11,000.00 in the other seven, do they not?

A. I believe so. I don't believe that is much different from your figures, however.

Q. I beg your pardon?

A. I don't believe that is different from your plan's figures, however.

MR. GLADDEN: I belive that's all. Thank you.

JUDGE GOLDBERG: Further cross?

JUDGE JUSTICE: Is there redirect examination?

REDIRECT EXAMINATION

BY MR. MARTINEZ:

Q. The question was asked of you regarding the makeup of the delegation with regard to several districts. What are the possibilities of minority participation, election-wise, in District E?

A. There has been quite a movement of black population into that area, and there are several communities which would allow for a substantial participation by blacks. It also includes several census tracts which are becoming very highly Mexican-American, so there would be a great deal of minority participation there within a few years.

Q. Within a few years possible for a third?

A. Yes, sir.

MR. MARTINEZ: Thank you.

JUDGE GOLDBERG: Mr. York?

MR. YORK: We have nothing further, Your Honor.

JUDGE JUSTICE: You may stand down. Excuse me a moment. Did you want to examine this witness, Mr. George?

MR. GEORGE: No, I thought Mr. Bonner had concluded his Tarrant County presentation.

JUDGE GOLDBERG: I don't understand your question, Mr. George.

JUDGE JUSTICE: He has some evidence to present.

MR. GEORGE: I just wanted to call one witness. I thought Mr. Bonner had concluded his Tarrant County witnesses. I'm not sure.

JUDGE GOLDBERG: Well, let's find out. Are you all through with Tarrant County?

MR. MARTINEZ: We have one more witness, Your Honor.

CARLOS PUENTE

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. MARTINEZ:

Q. State your name for the Court.
A. Carlos Puente.
Q. You are the same Carlos Puente that testified earlier?
A. Yes.
Q. And your qualifications are before the Court?
A. Yes, they are.
Q. Have you had an opportunity to view other plans submitted on Tarrant County?
A. Yes, I have. We have been working with some of the legislative processes--.
JUDGE JUSTICE: Speak out a little louder, if you please.

THE WITNESS: Excuse me, Your Honor.
A. We have been working withthe single-member district plans since last December roughly, and we have had it before the Legislature, et cetera. We have had opportunity to review the other plans.
MR. MARTINEZ: Begging the Court's indulgence, Mr. Puente is recovering from a little bout with laryngitis.
JUDGE GOLDBERG: All right, we'll bear with him.
Q. With respect to the plan submitted by Mr. Gladden, are there any specific criticisms that you have?
A. One outstanding one in particular that I have is that he leaves out a substantial Mexican-American community on the north side of Fort Worth called the Diamond Hill area and also the Rosen Heights area, a black and brown area. This comprises three census tracts in the North Fort Worth area, Census Tract 50.01, Census Tract 2.01 and Census Tract 5.01. It's about 3,000 minority population, 2,000 or so Mexican-Americans and about 1,000 blacks. This criticism, in essence is that these populations were left out of his District 32.1 and, in effect, the District 32.1 is predominately black and brown, and foreseeing this plan, if it were adopted by the Court, the Gladden plan, I would foresee a classic political, tactical or divisive district

in the fact that it would encourage blacks and browns to continuously be vying for that one seat.

Q. Rather than cooperating?

A. Rather than cooperating.

Q. The individuals that are left out, the groups that are left out, they are placed in other districts or in just one other district?

A. They are placed in other districts.

Q. More than one, so the effect is to disperse them among other districts?

A. Yes.

Q. Do you have any other criticisms that you would have of the Gladden plan?

A. Well, in essence, what I have seen of the plan and the analysis of it,his district 32.2 does not have a substantial enough black population to have a black elected there except in a number of years from now. There is a black migration in that area but not an immediate majority as yet.

Q. With respect to the Republican plan, have you reviewed that plan?

A. Yes, I have.

Q. Do you have any specific criticisms there?

A. In essence, the one that I saw, and this was quite a few months ago, but, as I recall it, it dilutes

the Mexican-American vote into several districts, and the black population is diluted also into several districts. They have an outside possibility of electing a black in one district.

Q. But no chance for a Mexican-American participation?

A. None whatsoever.

MR. MARTINEZ: That's all I have, Your Honor.

MR. GLADDEN: If it please the Court, I appreciate the time circumstance, but I would like to put the exhibit up on the stand in order to cross-examine, however.

JUDGE JUSTICE: Which plan is this?

MR. GLADDEN: This is the Escalante plan, Your Honor.
If I may--I'll speak loudly--I'll stand by the plan.

JUDGE GOLDBERG. Can everybody see the plan at the counsel table? If not, move around so that you can.

CROSS EXAMINATION

BY MR. GLADDEN:

Q. Mr. Puente, you mentioned the three census tracts that were left out of my plan that contain a substantial number of Chicano people, 5.01, this is one of them (indicating). Is that correct?

A. Yes.

Q. The other one is 2.02?

A. 2.02 or 2.01, I believe -- 2.01.

Q. 2.01? Which is situated right here (indicating). Is this correct?

A. That's right.

Q. What was the other one?

A. 50.01.

Q. 50.01 is situated here (indicating). Is that correct?

A. That's right.

Q. Now, there's less than 30 percent. You remember the testimony that the yellow constituted 30 percent or greater Chicano vote. Is that correct, or population?

A. That's right.

Q. So in each of those three census tracts there

is not a concentration of at least 30 percent Chicano. Is that correct?

A. That's correct.

Q. Now then, in that connection in order then to move Chicanos in or out of the plan up here, it would be necessary to bring 70 percent white for each 30 per cent Chicano or less. Is that correct?

A. That is true, but, in essence, what can be done is moving the district, your district, in essence, District 1 up. You have the same percentages in black and brown population without having the Mexican-American population shifted into an outside district.

Q. Now, actually, 32-1 as it is constituted has a higher percentage of Chicano vote in it than your 32(a) or (b), does it not?

A. That's right, and also a higher black percentage.

Q. Yes. The black percentage in this is 50 percent, and the Chicano percentage is 22?

A. I'm not too familiar---.

Q. About 72 percent, O.K., and in your district it's 40-19 in round figures?

A. Roughly.

Q. In your plan there are several blacks, more than 30 percent, that are not in either District A or B. Is

that correct?

A. Yes, I would say so.

Q. One here particularly--I cannot see the number--36.01 where there's probably 40 percent black is not in your Plan A or Plan B?

A. I'll have to look at the map.

Q. O.K.

(REPORTER'S NOTE: Witness examines map.)

A. 36.01 is our District B.

Q. O.K. Did you help prepare this plan?

A. Yes, I did.

Q. Or did Mrs. Perez?

A. I gave roughly some guidelines.

Q. Did you anticipate the income as a factor in connection with the plan, whether or not the poor white communities would have any representation?

A. We didn't specifically on the poor white community on regular income. An analysis by Dr. John Bean from the North Texas University, an urban geographer, he did the analysis statistics for us.

Q. Your plan does have a mean family income in your Plan A and B of some in excess of $11,000.00. Is

that correct?

A. I'll have to look at my figures again.

MR. GLADDEN: I think you plan actually speaks for itself, and I won't delay the Court. I have no further questions.

JUDGE JUSTICE: Is there any other cross examination?

(WITNESS STANDS ASIDE.)

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: Your Honor, I have one brief witness that I would like to offer.

I apologize to the Court. I don't have as elaborate a map as Mr. Gladden. Our plan has been on file with the Court. Briefly, this is a colored map showing the outlines of various districts. I will refer to them in examining Mr. Russell basically to our numbers on our map so that we can see it. You can compare it with the lines on that map.

R. G. RUSSELL

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GEORGE:

Q. Would you state your name for the record, please?

A. Robert G. Rusty Russell.

Q. Mr. Russell, would you indicate where you live and very briefly indicate your political experience, if any?

A. I live in Census Tract 115.02, which is located in the southern extremity of Arlington in Tarrant County, Texas. My--you indicated my political experience?

Q. Yes, sir.

A. Primarily working in the Republican Party since 1962 and as a legislative candidate in 1972.

Q. Are you involved in the--well, were you involved in preparing the plan submitted by the Republican

Plaintiffs for Tarrant County?

A. Yes, I was.

Q. Were you chairman of the committee that prepared the plans?

A. I was chairman of the two separate committees charged with the legislative redistricting for the Tarrant County Republican Party.

Q. Very briefly, please, would you indicate the factors you considered in preparing the plan and the method you went about in preparing the plan?

A. The primary consideration we used was continuity of interest of the people who lived in the district and related it, as far as possible, to geographic compactness in natural lines or divisiveness. In our plan we're similar to Mr. Gladden's in our outlying districts. However, there is a considerable difference in the inner city area, which is to a large extent low income regardless of minority composition---.

Q. May I interrupt you just a minute, Mr. Russell? Mr. Puente testified he examined the Republican plan, and it did not allow for any minority participation and fragmented the minority groups. I believe these are our Districts H and I, the green one here and the red one here (indicating). Would you briefly give us the basic population by ethnic and racial groups in those districts?

A. All right. The District H is approximately 17 percent black, approximately 17 percent Chicano, and the remainder of the population is primarily low income white with a very comparable legislative interest to the black and Chicano.

Q. What about I?

A. I is 48 percent black and approximately 5 1/2 percent Chicano, and again, the whites, the vast majority of them who live in the area will share the same economic and legislative interests.

Q. Do you have an increasing population of the black percentage in our District I? The part of I and E, our District E, is that an area of black migration into those two districts?

A. Our District E has primarily black migration into it. Districts H and I are somewhat more stagnant. E has approximately 27 percent minority in it. Our viewpoint was, rather than to attempt to guarantee a black or Chicano election, was to guarantee that any representative from that district from the different groups would have an opportunity for election, and whoever was elected would vigorously represent the interests of the minorities and the lower income whites.

Q. Obviously, in trying to get a heavy majority--District I has a heavy minority group population breakdown.

Obviously in drawing any kind of map for Tarrant County, you have only 17 percent of the total population that's minority, and you have some difficulty since they all don't live next door to each other putting them all in one district, as I understand. Is that correct?

A. That's correct.

Q. Would you very briefly describe the relationship the legislative plan submitted by the Republican Plaintiffs has to the historical boundaries of other political subdivisions, such as congressional, senatorial, et cetera, districts?

A. An overlay of U.S. congressional districts, State Senate districts, which we have two intact in Tarrant County, or county commissioners precincts, every single line we could utilize was utilized, and we did not split a single census tract anywhere on the map, so all those boundaries are intact. Only the two primary lakes in the area, one side of the lake is both the city limits and the lake boundary. We utilized both of those. We utilized main highways, main roads and especially whereever we could we used city limits to maintain integrity of the smaller political subdivisions in the county.

Q. Let me ask you quite briefly, have you examined the plan submitted by Plaintiff Gaskin by Mr. Bonner, and would you compare that plan to the plan you

prepared, just very briefly?

A. Mainly, neither of our plans will guarantee tha the elected representative from a district is of minority origin.

Q. The only plan undertaken was the Escalante plan?

A. The only one I have examined from Tarrant County. The Gaskin et al plan tends to fit areas of higher economic interest instead of lower economic interest, so that there is a kind of counterbalancing, even though it takes sometimes some unusual shapes in order to achieve this; whereas, in the Republican plan we try to go in blocks like cutting a piece of pie as closely as possible.

MR. GEORGE: I believe that's all I have. Thank you.

CROSS EXAMINATION

BY MR. GLADDEN:

Q. Mr. Russell, in connection with your plan, the largest combined minority district is I. Is that correct?

A. That's correct.

Q. And that contains a minority composition of what figure?

A. Approximately 53 1/2 percent.

Q. And in that connection did you consider the economic effect in connection with drawing your lines as to how it would have an impact on the low income white community?

A. Yes, sir, we did.

Q. In that connection can you tell me how many districts are composed of what substantial numbers of low income where they would have a meaningful opportunity or a chance to elect somebody?

A. Four.

Q. Can you tell me those?

A. That would be District A, which is north of H, which would be primarily north of 28th Street. All right, the District H that we had already discussed, the District I, the District E and to some extent the District G, although it's on a little higher median income area. The significant labor interests coupled with Lake Como, the need to, at least, get some of that vote means it will have to be at least moderately responsive to the low income group.

Q. You mentioned E and G. Is that correct?

A. Yes.

Q. I didn't hear your third one.

A. It should have been A,H,I,E and G.

Q. E and G?

A. Yes.

Q. G has a mean family income of approximately $15,000.00 does it not?

A. I did not examine it from the statistical income but from my knowledge of the county.

Q. In that connection, you also combined, did you not, in G, which is roughly this section here (indicating)?

A. Yes.

Q. You combined the communities of White Settlement and Westworth Village to the Ridglea-Westover Hills area, did you not?

A. Yes.

Q. Now then, Westworth Village and White Settlement are primarily General Dynamics employees, labor-oriented. Is that correct?

A. Especially White Settlement.

Q. Particularly White Settlement. Now then, on up the hill in Westover Hills and Ridglea, that's where the rich people in the community live. Is that correct?

A. That's correct.

Q. With the exception of the folks in Tanglewood, but Westover Hills is the highest mean family income tract in the district. Is that not correct?

A. It's a very nice district.

Q. Now then, in connection with your division of the east part of the county, 36.01, which is situated right here (indicating), in your plan you do dip down and take 36.02 into one district, but you cut down and take 36.01 and put it up into a northern district?

A. That is correct.

Q. All right. Now 36.01 does have a--constitutes a large percentage of black votes. Is that correct?

A. That's correct.

JUDGE GOLDBERG: Mr. Gladden, all of this is in the record, isn't it?

MR. GLADDEN: Yes, it is, Your Honor.

JUDGE GOLDBERG: I plead with you--.

MR. GLADDEN: I rest, Your Honor. Thank you.

(LAUGHTER)

JUDGE WOOD: Let me ask you a question.

THE WITNESS: All right.

EXAMINATION

BY JUDGE WOOD:

Q. I believe you take the position that the Plaintiffs' plan here--I think you'll concede it is designed in odd shapes, the districts, in order to accomplish or assure the election of certain ethnic groups. I believe that's what you said.
Your plan is done more in quadrants. Is that right? Is that you opinion? You state that it takes odd shapes, and the Republican plan, which is now being exhibited to you, does not gerrymander to the extent of the plan they're comparing it to. Is that what you are telling us?

A. Well, the committee that worked on it made a conscious effort to attempt to divide it into quadrants, while the Gladden plan around the perimeters of the county, outside of the inner district, does take a fairly reasonable shape in blocks--not reasonable in terms of the most ideal district, but in terms of just physically looking at it, but the inner district, the middle one, in other words, we were attempting to achieve a more compact district.

Q. Now, being familiar with your own district

there in which you reside, would you say that the Plaintiffs' plan, as distinguished from the Republican plan there, is a gerrymander in order to secure election of certain ethnic groups? Wouldn't it necessarily include Republicans?

A. Your Honor, the number of minority that live in that district is so low I think it's zero percent black and not more than three percent---.

MR. GEORGE: You're talking about this (indicating)?

JUDGE WOOD: Yes.

A. Could you ask me that again?

Q. What I am saying is that the Plaintiffs' plan, as distinguished from the Republican plan, is a gerrymander in order to assure ethnic groups, but wouldn't necessarily include Republican. Isn't that true?

A. No, sir, it isn't.

Q. Well, isn't it gerrymandered, the Plaintiffs' plan in order to assure the election of certain minorities?

A. Your Honor, Plaintiff Gladden and Plaintiff Republican Party are both attempting to gerrymander in order to achieve desired results.

JUDGE WOOD: That's all I have to ask.

MR. BONNER: I have one or two fast questions. Norman Bonner representing Plaintiffs

Gaskin et al.

CROSS EXAMINATION

BY MR. BONNER:

Q. Mr. Russell, would you agree that this area here in the central part of the district and Tarrant County represents the concentration of minority residents, that is, most of the residents in the district and the county live roughly in this area here (indicating)?

A. Yes.

Q. So in formulating your plan, which, in effect, splits this identifiable area into three different districts, you were more concerned with compactness of the districts than you were with recognizing community of interests. Isn't that correct?

A. I attempted to balance the two?

Q. You attempted to balance the two?

A. Yes.

Q. You stated on direct that even had you been so inclined, you could not have formulated a district that would take into account most of the minority community, because--well, did you state that?

A. Because of the housing patterns in a

community it is very difficult. In other words, even from the statistics shown here, there will be a census tract right in the middle of a heavy minority concentration with very little minority in it, and of course, you're quite familiar with that.

Q. But would it not be even possible theoretically to carve out one district that would take into account all of the minority communities theoretically?

A. Theoretically as long as the district is considerably larger than any of the other districts.

Q. You would consider this a gerrymander, by the way, if such a district were carved out?

A. I would consider it simply drawing the district to achieve a given result, and that can be termed gerrymander.

Q. Despite the fact that all the residents live in more or less a continuous flow from one district to the other?

(REPORTER'S NOTE: There was no audible response from the witness.)

JUDGE JUSTICE: You mean by that a community of interests?

Q. An identifiable community of interests.

A. That to me would be termed a gerrymander, but it might be a very desirable one.

Q. You stated, "We pit areas--" this is your words--"We pit areas of large --" in the Gaskin plan--"areas of large economic interests against low economic interests." How are they pitted against each other under the Gaskin plan?

A. I don't have your map before me. You have a district that comprises the country club area of Arlington, the very, very nice areas of Meadowbrook and Handley, that comes across in the upper northern center of the city and comes underneath the lake into the Forest Hills area.

MR. BONNER: May I approach the witness, Your Honor?

A. On your map this would be 32(g) and you come all the way across the top of the center of the city to Census Tract 1.02, which on the larger map before us actually touches Gladden's 32.1 and you go from there all the way over to--in other words, Your Honors, the 32.3 coming in the District 32.4 is almost exactly as Gaskin's 38(h). You come almost into Arlington and then right down underneath the lake and there's a fantastic disparity of interests in that type district.

Q. Isn't it true, first of all, that most of

the people in that district are Caucasian?

A. I don't have the exact statistics in front of me.

Q. From your knowledge of the district, would you say that?

A. It should run at least 60 percent or better.

Q. Or better. In fact, isn't it true that--we have the color scheme of the Escalante plan to refer to. Isn't it true that there are virtually no minority communities in that district?

A. I'm not sure what the color code is. The dots on the Forest Hills area in terms of a heavy percentage district---.

JUDGE GOLDBERG: The what?

MR. BONNER: The dots.

A. The Forest Hills area coming under the lake has a dotted pattern.

Q. Well, isn't it also true that that district might best be described as white middle class, middle income?

A. A large part of it, but it would be difficult to classify the north part of Fort Worth or Forest Hills as middle class.

Q. Well, could you say that most of the

residents of that district own their own homes and live in a relatively clean, well-kept neighborhoods? Can you make statements like that about them?

A. You can make statements like that about the Meadowbrooks, Handley, Arlington and possibly the Forest Hills area, and the other part of it I'm not aware whether they own or rent, but it is on a lower economic level. The homes are not as well kept. The type of construction is much older and is not on a par in terms of dollar value.

Q. So at least four of the five areas that you have identified are substantially similar. Isn't that true?

A. I would say three.

Q. You also stated that under the Republican plan those particular interests of the minority community that have been identified in testimony here four could conceivably be protected by the election of a lower class person generally of whatever race. I believe you testified that lower class whites, blacks and Mexican-Americans share the same legislative interests. Is that your opinion?

A. I feel very strongly that they do.

Q. Do you feel that lower class whites who might be elected from one of your districts, I believe your District H, would be interested in civil rights legislation?

A. I believe if he ever wants to get re-elected, he will have to have a sufficient number of votes

out of the minority community, so he's going to have to be interested.

Q. Well, isn't it true that in your District H, I believe, there's 25 percent minority?

A. No, it's 34.

Q. Thirty-four?

A. In H it is approximately half and half on the black and Chicano.

Q. And your District E, which takes in much of the southern portion of the minority concentration here (indicating)?

A. It's similar to 32.2.

Q. In fact, don't the minority communities represent about 25 percent of that district?

A. Twenty-seven.

Q. Twenty-seven percent. You feel that those numbers are sufficient to assure that whoever is representative from those districts will be interested in employment discrimination legislation, housing discrimination legislation or matters like that?

A. The District E has been mentioned previously by one of Mr. Gladden's witneses, and I concur in this view. Percentage or growth of the black community is substantial, and since the 1970 census I feel that the 27 percent is going to be very low. The blacks are moving into that area. The

economic stability or the economic plateau at which they have arrived is much greater. They tend to be more successful. They live in much nicer homes and have much better jobs. Their interests in District E do not tend to be the same as the interests of the blacks in the other districts, so your economic interests have changed, and for that reason I feel that District E would elect quite possibly a moderate black. The more liveral the individual were, again speaking as a black, then the more he would need to run in District I, because there's that much difference in the economic interest of even the blacks in that part of town.

Q. I think my question is directed more to social interests than to economic interests. I asked you if your representative from either District H or District E would have sufficient political sensitivity to the minority residents of those districts to introduce legislation dealing with the employment discrimination or housing discrimination, which might well affect blacks of whatever income category.

A. Of course, I feel they would.

Q. You feel they would?

A. Yes.

Q. You don't feel there would be some hostility to this sort of legislation from the black residents of that district, those districts?

JUDGE GOLDBERG: Mr. Bonner, he's answered your question. You can have a violent disagreement with him, and you have an opportunity to tell him about it.

MR. BONNER: O.K., very well, Your Honor. One more question.

Q. Do you believe that your representative would press for such matters as school desegregation and delicate matters like that?

A. I think all representatives in the county should, for that matter. It doesn't make any difference what their district is.

MR. BONNER: That's all.

JUDGE GOLDBERG: Stand down.

MR. GLADDEN: Your Honor, I have one last question, and for the purposes of the record, I would like to identify the map that they're speaking from was Plaintiffs' original offer and tender of Plaintiffs' Exhibit 1-G.

FURTHER CROSS EXAMINATION

BY MR. GLADDEN:

Q. In that connection, Mr. Russell--.

MR. GLADDEN: We would also like to call the Court's attention that this plan or map is different from those submitted in the original plan in that the low income--those earning less than $8,000.00 in population, census tracts were identified with dots on the maps, rather than in colors, and that the high income of $14,000.00 and greater were identified with diagonal lines.

Q. Mr. Russell, when you made reference to those with dots when Mr. Bonner was asking you about those, those were census tracts and are there any diagnoal lines in that part of your plan?

A. Quite a large number.

Q. The West Arlington portion is high income, and the dots were the low income. Is that correct?

A. Yes.

MR. GLADDEN: I belive that's all, Your Honor.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: I have no questions, Your Honor.

JUDGE GOLDBERG: Mr. York?

MR. YORK: We have no questions of this witness, Your Honor.

JUDGE JUSTICE: Please stand down.

THE WITNESS: Thank you, Your Honor.

(WITNESS STANDS ASIDE.)

JUDGE JUSTICE: Does that take care of all the Plaintiffs.

MR. GEORGE: I have no evidence.

JUDGE GOLDBERG: Well, are we through with Tarrant?

MR. KORBEL: I have one thing to say, Your Honor.

JUDGE GOLDBERG: To say or to present?

MR. KORBEL: To say.

JUDGE GOLDBERG: Well, we'll listen to your saying later.

JUDGE JUSTICE: Does the Defendant State of Texas have anything to say with reference to Tarrant County?

MR. YORK: Yes, sir, we would like to call

Representative Dave Finney as a witness.

JUDGE JUSTICE: Come forward, Mr. Finney.

I notice this is Plan Z. I take it we don't have any Plan X.

(LAUGHTER)

DAVID FINNEY

a witness called by the Defendants, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. YORK:

Q. Can you give us your full name, please sir?

A. My name is David Finney.

Q. What is your business or occupation?

A. Basically, I am a state representative from Tarrant County.

Q. Are you also a licensed lawyer?

A. Yes, sir.

Q. How long have you been a representative from Tarrant County?

A. Since 1962. Well, I was elected in '62.

Q. Have you served continuously since then?

A. Yes, sir.

Q. Have you been involved from time to time, Representative Finney, in the redistricting reapportionment process as it has gone on in our Legislature?

A. Yes, sir. I am more or less unofficial but not the official chairman of the Tarrant County delegation, legislative delegation, in the House, and during the last session of the Legislature we attempted to pass a redistricting proposal that would have given Tarrant County single-member districts.

Q. During the 63rd Session of the Legislature a bill was introduced for the purpose of drawing single-member districts in Tarrant County. Is that correct?

A. Not a bill, sir. Our problem was procedural. I mean a bill was introduced for the whole state, and then, yes, we later introduced a bill for Tarrant County and tried to pass it.

Q. How does what has been marked and what is up before the Court on the easel as Plan Z, how does it compare with the plan which was developed and submitted in the 63rd Session, this last session of the

Legislature, for Tarrant County?

A. Well, sir, D,I,C,H,A, and G are the same (sic)

basically the same, as the one we attempted to pass the last session of the Legislature. E, F and G have been changed somewhat.

Q Incidentally, are you generally familiar with the sealed plan which Representative Sherman submitted earlier to the Court?

A Yes, sir.

Q How does Plan Z relate---?

A Well, of course, in answer to Judge Justice's question a few minutes ago, we submitted one plan we called Plan X that would have dealt with District 42 or a part thereof, and then we had Plan Y that would have dealt with the inner part of the district without touching District 42, and Plan Z is a modification of Plan Y that was submitted to the Court, and the only change would be in E, F and G.

Q You have a nine-member delegation?

A Yes, sir.

Q Was the delegation itself unanimous in the 63rd Legislature in proposing and being behind this plan?

A No, sir, in the 63rd Legislature we had seven members, as I remember it, for the plan we were trying to pass at that time, seven out of the nine.

Q And as this case progressed and as it went to trial in December of this year, had that seven-to-two breakdown changed?

A Not appreciably.

Q I should have said December of '73.

A No, sir, it's still pretty much a seven-to-two split.

Q Now, after being advised this week, after we advised you this week that, actually, the Court had ruled that no evidence would be permitted on the plans unless they were adopted by one of the parties, were there substantial negotiations through the office of the Governor and office of the Secretary of State and within the Tarrant County delegation about whether or not a plan might be agreed upon by the delegation?

A We met and tried to agree on a plan, yes, sir.

Q What is the present status of the delegation's agreement on Plan Z?

A Seven for, one indifferent or, at least, not objecting. I thought at one time it was seven for and two not objecting, but I've been advised that is not the present case. I guess it is seven-one-one breakdown.

JUDGE JUSTICE: One is opposed?

THE WITNESS: Yes, sir, it's my understanding. I have not been advised of that personally, however.

Q What has been your experience in watching redistricting plans go through the Legislature and as they

are being done by the Legislature with regard to whether or not a plan which is agreed upon by a vast majority of a delegation from a county or district, whether or not that plan would generally be accepted by the Legislature as a whole?

A Well, the last session, as best I remember it, we never failed to receive a simple majority of every vote we attempted to take on the procedural steps necessary to get the bill before the House. We were unsuccessful, however, because we needed a two-thirds majority in our endeavors. My experience over the years when a delegation agrees with such a large majority as we have, a seven to two, that the bill would be passed.

MR. RICHARDS: Please the Court, I object. The Legislature has never passed a single-member district bill that I am aware of, and one of the reasons for this litigation---.

JUDGE GOLDBERG: Mr. Richards, if there's anything new in this, why -- but let Mr, York present it as he sees fit up to a certain point. I've said before we have heard a good deal about this, but go ahead.

MR. YORK: Thank you, Your Honor.

Q Tell us a little bit, if you will, about the criteria which were used in drawing Plan Z, Mr. Finney.

A Well, Plan Z is like Plan Y, next before it. I think our main concern, obviously, was to try to get a district in there that would have a black representative. The main concern, I think, of the delegation was to have a district that would assure the delegation of a black. District No. H would do just that. I mean I think that was our first concern. I think that district has approximately 66 percent black electorate, and it is our feeling that in order to fully represent the black community, in order to be a champion of their causes and in order to be able to aggressively promote their interests, the man -- the person, whoever comes from that district must be responsible to a black electorate, and there has been some other testimony here earlier about some other plans. I think they referred to a candidate in the last election by the name of Webber which would have carried either one of the plans proposed by Raza Unida. The only difference in my mind that would distinguish that is that Mr. Webber is a man of personal wealth and was able to spend a whole lot of money, and I don't know that anyone else may or may not be able to do that. However, District H as our plan is constituted here in my opinion would guarantee the election of a black person from that area, and a person who would be responsible primarily to a black electorate and in our opinion really effectively champion their cause.

The rest of the district is divided up with a view toward compactness, and I think we achieved that with a substantial compliance with the numbers involved.

In answer to Mr. Gladden's proposal on economic data, we did not consider the income of the district. Again, I say, we thought our main function would be to get a black elected. I, for one -- I don't know about the rest of the delegation, but I, for one, would certainly advance the idea that there is not that much comparison between a poor black man and a poor white man, because that's basically what the redistricting situation is all about, is the fact that there is that real difference, and I think it is a very substantial one, and I don't think that the idea of the black, brown and white being united on poverty has any real bearing for the redistricting proposals.

Q You don't believe that poor Whites and poor blacks have such a community of interests that they ought to be lumped together just as if they were really one group?

A No, sir, I don't think that there is that much community of interests between them on that basis.

Q How are the deviations in this plan, Mr. Finney, these deviations from the ideal representative district?

A Well, sir, I think they're certainly within the bounds of the criteria laid down by the Courts.

Q Incidentally, has there been prepared and do you have a copy there before you marked Plan Z---?

A Yes, sir.

Q ---which carries a breakdown of the districts by ethnic background and breakdown?

A Yes, sir.

Q And which would also show the manner in which the districts relate to the ideal district numberwise?

A That's on Exhibit E.

JUDGE GOLDBERG: Does it have the census tract?

MR. YORK: Yes, sir, it does, Your Honor.

Q How many incumbents, that is, incumbent state representatives are paired against each other by this plan?

A There are two paired in District D and two paired in District G. Otherwise, there are no other pairs.

Q How does that compare with the number of pairings that take place under the plan that Mr, Gladden has advocated?

A Mr, Gladden's plan would pair -- I don't know. I don't have the numbers handy, but I think he would pair three different pairs. I mean there would be six different people paired.

JUDGE GOLDBERG: As against four from you?

THE WITNESS: As against four for us, yes, sir.

Q In other words, two races would pair people, and three races in the Gladden plan?

A Yes, sir, his would pair the same two that we pair in District G, but it would be a different four in the other district.

Q Your plan takes about 60 some-odd percent, 65 percent of the black population into District H. If my figures are correct, that leaves about, let's see. How many Mexican-Americans would be left? Can you figure that out?

A Sir, I'm somewhat confused.

Q Well, let me put it this way. H has got under these figures about eight percent of the Mexican-Americans. It is eight percent Mexican-American. Considering that the Mexican-American population of a county is only about six percent, did you find any way to put the remainder of the Mexican-Americans into any district which would insure them in any way, topside or bottom, being able to elect a representative?

A No; sir, they won't be able to elect a representative under our proposal. The problem basically is that they are so dispersed throughout the county, and there are two rather large groupings, a large group near what we call the south side, and as Mr. Carlos Puente referred to it,

there's a rather large grouping on the north side, but they are somewhat scattered other than that.

Q What else is there about your plan which you believe the Court should be advised of?

A Basically, I think it is a fair plan, and the point is that there are approximately 80,000 blacks in Tarrant County. That's 11 percent of the population, 11.88 percent, of the population within the central area, District 32, and, according to my calculations, that's roughly one-ninth, and we gave them one out of nine representatives, so I think it is a fair plan, and I think the other aspects are fair and reasonable, because they are compact enough not to be too dissimilar in interests.

Q Are there any comments that you would like to give to the Court about any of the other plans, the Gaskin, Escalante, Republican plan or any other plan, sealed or unsealed, which have been presented to the Court?

A No further comments, no, sir. I think I have pretty well stated my objections.

Well, Mr. Gladden's plan, I would like to point out, while he purports to try to elect minorities, it is my opinion that his plan where he has District 32-1, I agree with Mr. Puente in this. It would be difficult in my opinion to elect a black from that area in view of the fact that the population breakdown there is 50 percent black, 22

percent brown and 28 percent white, but a quick just kind of glance through there would show that while we're talking about census figures, we're not talking about eligible voters, and I think that you would find that the black community has a much larger proportion of people who are under the age of 18 than would the white people in that area, and I don't know how we could arrive at the percentages in that regard, but there is a real serious problem that he would be able to elect a black from that area, and even if a black were elected, he would still be constantly confronted, you know, with a rather large white minority, whereas, under our plan he would be responsible to a black electorate and, as I say, could better represent their views.

Q And the plan that has been marked here as Plan Z, the way you have designated it, has been adopted by Dolph Briscoe, Governor of Texas, one of the defendants, and Mark White, the Secretary of State, one of the other Defendants, as the plan which they advocate and which they adopt before this Court. Is that correct?

A That's my understanding.

MR. YORK: Pass the witness, Your Honor.

JUDGE WOOD: Let me ask you one question for the record.

What Defendants' exhibit number is Plan Z for the record?

MR. YORK: It is about to be affixed, Your Honor. What number would that be?

(REPORTER'S NOTE: Exhibit sheets from the previous hearing cannot be located.)

JUDGE GOLDBERG: Let's call it Briscoe-White No. 1 for the moment.

MR. YORK: All right, sir.

JUDGE WOOD: Well, is that going to be the permanent number?

MR. YORK: I wouldn't think so, Your Honor, but I think the Clerk may be having a little difficulty.

JUDGE GOLDBERG: He can substitute it later.

CLERK OF THE COURT: I'll mark it B-W-1.

JUDGE WOOD: What number?

CLERK OF THE COURT: B-W-1.

MR. YORK: Marked as Briscoe-White No. 2, Your Honor, is the Plan Z, a smaller form of the attached map and the breakdown of the census tracts, et cetera. We would offer both Briscoe-White No. 1 and 2 into evidence.

JUDGE JUSTICE: Very well.

(PLAN Z MAP & PLAN Z DESCRIPTION -- were later duly marked as:

DEFENDANTS' EXHIBITS NOS. 43 & 44)

MR. GLADDEN: Please the Court, Don Gladden for Plaintiffs Escalante and others.

CROSS-EXAMINATION

BY MR. GLADDEN:

Q Mr. Finney, in connection with Plan Z, I believe it is your testimony that Plan Z is a modification or change from Plan Y which was filed with this Court by Representative Sherman. Is that correct?

A Basically, yes, sir.

Q Now, Plan Z as it differs from Plan Y is that you altered or changed 19 census tracts in E, F and G. Is that correct?

A Well, yes, sir.

Q Now, in that connection the deviation from the average number of the people in the district is roughly six percent. Is that not correct?

A. You're talking about top and bottom?

Q. Yes, top and bottom, from a minus 3.14 to a plus 2.91.

A. Yes, sir.

JUDGE GOLDBERG: Now, this question is directed to Plan Z?

MR. GLADDEN: Plan Z, Your Honor, yes, sir.

Q. Plan Z differs from Plan Y which is before the Court under the Sherman presentation in that your top in it was 2.8--excuse me--at the top was Plan H which was 2.8, and now the G is 2.91 above the average, and E is 3.14.

JUDGE GOLDBERG: Well, the record will show.

Q. It's on your Exhibit B-1-Z, the last page of your plan.

A. I do not have a comparison.

Q. Oh, you don't have the Sherman plan. I see. O. K. So it's actually about six percent.

Wouldn't you say, Mr. Finney, that in the preparation and consideration of this plan you testified that you didn't take into account the economics or mean family income of the various people? Did you take into account, Mr. Finney, the particularized needs of the members of the Tarrant County delegation in formulating this plan?

A. Mr. Gladden, we took into consideration the best political interests of our constituency and the people we represent, which we are elected to do in the whole county, the same thing as your plan takes into consideration the best political interests of the people you represent and the Republicans represent and Puente represents. This is a political question. There is no argument about that. I don't think anyone has disputed that today.

Q. And the modifications that were made during this past two or three days that finalized the plan Saturday morning was between the delegations as to who is going to be paired with whom and who is going to have what districts. Isn't that correct?

A. It came to that, yes, sir.

Q. So you would say that this plan maximizes the political opportunities of those people involved in the development of the plan?

A. Yes, sir, and it represents the maximization of the people we represent, which we consider to be the whole of Tarrant County.

MR. GLADDEN: I believe that's all. Thank you.

MR. MARTINEZ: Your Honor, we would first like to preface our remarks by saying we think it is outrageous that such a plan would be presented

at this late date. Of course, we have seen it, and the Defendants waited until just a few moments before they put the plan up to distribute their data. We have had very little chance to look this over, but we have seen some glaring problems aside from the deviation already mentioned.

CROSS EXAMINATION

By Mr. Martinez:

Q. O. K., Mr. Finney, you are basically familiar with the county and its demography?

A. Yes, sir.

Q. Within five miles--if you drew a line in a circle five miles outside of the center of the city, would it be fair to say that there are no Mexican-Americans of any sizable group outside of that area?

A. I don't understand your question. You're talking about a radius of five miles from downtown?

Q. A radius of five miles from downtown.

A. Outside of that area?

Q. Outside of that area.

A. It would--the concentration, I think, is within a five-mile limit. Let me answer it that way. I don't

know the extent of the distribution outside of that, but as I look at that map and approximate the distance, the largest concentration of the Latin Americans would be basically within five miles, yes, sir.

Q. About 95 percent?

A. A large concentration, and for the Court's information, I think Census Tract No. 18 is downtown.

Q. To review some of the points of your plan, in your plan you have isolated, in effect, all the blacks into one district, have you not?

A. No, sir; not, sir, we have a plan--District H would in our opinion guarantee them a representative who would be responsive to their needs. The rest of the blacks are in different areas. District F has, I think, a relatively large concentration of 15 percent. District G has another concentration but I don't think we have scattered them.

Q. So, effectively, there are only two other districts that have any responsiveness to minority needs in your plan?

A. Yes, sir, but I think that is basically the same as all the other plans.

Q. I notice something about your plan. The districts in your opinion would you say they are fairly compact or fairly spread out?

A. No, we think we have a rather compact map.

Q. Is this part of District E here (indicating)?

A. That's part of District E, yes, sir.

Q. Are there substantial cuts across census tracts in your plan?

A. Yes, sir.

Q. Just from our reference---

MR. MARTINEZ: May I approach the witness, Your Honor?

JUDGE JUSTICE: Yes.

Q. I'm going to show you a plan we call Gaskin et al plan.

A. If you don't mind, I think I have a copy here.

Q. O. K., you're familiar with it?

A. Today is the first day I have had an opportunity to see this map, but I'm fairly familiar with it, yes.

Q. Do you know where your brother legislators live in the county?

A. Yes, sir.

Q. Under that map?

A. Yes, sir, I know where they live, yes, sir.

Q. O. K. Are there any major pairings there?

A. Yes, sir, with District C under the Gaskin plan you would pair three.

Q. And who would they be?

A. That would be Mr. Lewis, Mr. Willis and Mr. Spurlock.

Q. Is there any other pairing?

A. District F would pair Mr. Shieffer and Mrs. Miller.

Q. And all other districts would have incumbents?

A. No, sir. District D would be where I am. District G would be Mr. Hilliard. District I would be Mr. Evans, and I think District E would be Mr. Sherman, although he may be paired with Mr. Shieffer and Miller.

Q. It should be Sherman.

A. Is E for Sherman?

Q. He would be in that district.

A. O. K.

Q. Then given the Districts A and B that we have described as minority districts, there are no incumbents in those districts?

A. No, sir.

Q. So basically five legislators are paired. four are left undisturbed as far as their districts are concerned, and we have two possible minority districts?

A. Yes, sir.

MR. MARTINEZ: That's all I have, Your Honor.

JUDGE JUSTICE: Anything from any other

counsel?

MR. KORBEL: George Korbel representing Plaintiffs Moreno et al.

CROSS EXAMINATION

By Mr. Korbel:

Q. You testified that you were a member of the Reapportionment Committee. Is that correct?

A. I didn't testify to it, but I am.

Q. You are a member? Would you agree with me, if possible, it is not a good idea to place highly registered white census tracts with lower voter registration Mexican-American or black census tracts?

A. That's part of what I have been complaining about.

Q. That is your approach to districting; is that correct?

A. No, sir, I think that we have to take into consideration that, but I do think you have to concentrate a large proportion of the electorate to where the black would be responsive to their needs and wouldn't have to worry about being campaigned against every time, a split vote on white or Mexican- American.

Q. If you were drafting districts, it would be preferable, as far as you're concerned, not to place highly registered white census tracts with low registration black census tracts. Is that right?

A. I don't think we went into that when we drafted our districts, but that is a problem, and I think Mr. Gladden's plan reflects it.

MR. KORBEL: That's all.

JUDGE JUSTICE: I have one question I would like to ask you, Representative Finney.

We had some testimony at the first hearing on this case. I believe, although I cannot be certain, that it was from Representative Carlos Truan from Nueces County to the effect that it was the Tarrant County delegation which blocked the adoption of single-member districts in the last session of the Legislature.

Would you give me your views on this?

THE WITNESS: Well, sir, going back to another question a few minutes ago about political implications, the Legislature is a body politic. There was a lot of politics involved in it. I imagine if we went back again, there would be more politics involved in it. I thought we had a majority of our delegation for it. We just weren't

able to muster a two-thirds vote. That was the problem of the rest of the Legislature.

JUDGE JUSTICE: I have no further questions.

THE WITNESS: May I make one other statement?

Plan F--if, in fact, economic considerations become important, Your Honors, the District F here in my opinion is a real poor district, and District E, likewise, is a relatively poor district. I mean we don't think we completely--we didn't plan it that way, but it truned out that way.

MR. YORK: Mr. Finney, are you referring then to what has been marked as B-W No. 1 when you made those last remarks?

THE WITNESS: Yes, sir.

MR. YORK: We have nothing further, except to say for the gentleman from Fort Worth's benefit if it might soothe his outrage a little bit the purpose of our repeated phone calls to Mr. Bonner's office on Saturday afternoon was to advise them of this fact, if that would make their outrage a little less.

MR. BONNER: Three days wouldn't be enough

either, Your Honor.

JUDGE GOLDBERG: Well, Mr. York, do you have any other witnesses on Tarrant?

MR. YORK: No, sir, we do not.

JUDGE GOLDBERG: Does anyone else have any other witnesses on Tarrant?

The Court then will take a ten-minute recess, and then we'll hear some arguments on Tarrant. In the meantime, try to agree among yourselves as to how you want to divide up a minimum amount of time.

(Reporter's Note; The Court then, at 10:45 o'clock, A.M., January 28, 1974, recessed until 10:55 o'clock, A.M., the same day, at which time it reconvened.)

JUDGE JUSTICE: Please be seated.

JUDGE GOLDBERG: As I understand it, there are four parties that will have something to say on Tarrant County. Am I right about that? Mr. Gladden, Mr. York, Mr. George and the Bonner-Korbel group. Is that right?

MR. GEORGE: That's correct.

JUDGE GOLDBERG: We're going to give each of